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The Solicitors' Journal

(ESTABLISHED 1857.)

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Current Topics.

New Laws.

THE LAWS which took effect on 1st January, 1929 might almost be said to mark a mile-stone in the non-litigious work of the profession; those which have just come into force are of hardly any legal interest, and only one may be said to concern the public as a whole. This, of course, is s. 16 of the Finance Act, 1928, prescribing the extra rebate on income tax in respect of children now to take effect. This may be regarded as a step to safeguarding the production of babies. Section 12 of the Act imports the new duties on motor vehicles set forth in Sched. III in place of those previously in force; the important innovation is the differentiation, in the case of heavy vehicles, in favour of those fitted with pneumatic tyres. The National Health Insurance Act, 1928, an amending Act, contains various concessions to insured persons, and the married woman, as usual, draws her prize in this little legal lottery. Those interested in animals may be glad to know that Scotland is trying the experiment of the compulsory "humane killer" (ch. 29: The Slaughter of Animals (Scotland) Act, 1928), postponed, however, so far as the slaughter of sheep is concerned, until October (s. 11). Ch. 30, the Educational Endowments (Scotland) Act, 1928, gives commissioners power to "re-organise" an educational endowment, in effect by settling a *cy près* scheme. The Adulteration Acts are consolidated in the Food and Drugs (Adulteration) Act, 1928 (ch. 31), a matter to be noted by the legal advisers of the authorities enforcing those Acts. Another consolidating statute, the Petroleum Consolidation Act (cl. 32), has been in force since August. The Companies Act, 1928 (ch. 45), save for s. 92, still awaits the "appointed day" under s. 118 (4). It is understood that a consolidating statute will here also follow, but that seems hardly sufficient reason for postponing the useful reforms contained in the Act of 1928. The Criminal Law Amendment Act, 1928 (ch. 42), further lengthens the time during which a prosecution may be commenced under s. 5 (1) of the 1885 Act, to twelve months. The original three months mentioned in the second proviso to s. 5 of the 1885 Act had previously been lengthened to six months by s. 27 of the Prevention of Cruelty to Children Act, 1904, and again to nine months by the Criminal Law Amendment Act, 1922. Advisers of church authorities will note the Clergy Pensions (Amendment) Measure, 1928 (No. 3), amending the original measure of 1926.

Ecclesiastical Jurisdiction of Magistrates.

THERE WAS an unusual plea to the jurisdiction in the recent case of *Fisher* v. *Watts* at Manchester, arising out of a performance of "The Passing of the Third Floor Back" in the chancel of All Saints' Church, Chorlton-on-Medlock. The rector was summoned under the Theatres Act, 1843, for that he (*a*) unlawfully for hire did suffer a stage play to be acted in a place not being a patent theatre or licensed as a theatre, contrary to s. 11; (*b*) unlawfully did keep for the performance of a stage play a place of public resort not duly licensed, contrary to s. 2. The preliminary objection was that churches were under ecclesiastical law as interpreted by the Bishop, who had given his consent to the performance, but the stipendiary magistrate held that he had jurisdiction. The case for the prosecution was that 150 members of the public were accommodated in an unlighted gallery, the ceiling of which was in danger of collapsing, and that if there had been an application for an occasional licence for a stage play the City Architect would probably have found the church unsuitable. The stage was in the chancel, where there were footlights and scenery, and the defendant, after asking that there should be no applause, had announced that there would be a collection for the church restoration fund. In cross-examination of the informant it was suggested that the Bible, Mass and Holy Communion were dramas, but the stipendiary did not agree that everything symbolic was a dramatic representation or play. The defence was that (*a*) from time immemorial miracle and mystery plays had been performed in churches, and were permitted not only by Canon law but by the civic law; (*b*) a church was not a place of public resort within the above Act; (*c*) a collection, as opposed to a fee for admission, was not a hiring. The defendant's evidence was that he merely told the congregation of the place outside at which they might pay any subscriptions they desired to the restoration fund, and he did not agree that the gallery was unsafe. The stipendiary held (*a*) that the words "for hire" applied only to the actors, and that the defendant had therefore not infringed s. 11; (*b*) the word "keep" might contemplate a single performance, according to *Shelley* v. *Bethell*, 12 Q.B.D. 11. Although the performance was regarded as a continuation of the evening service, the learned magistrate regretfully imposed a fine of 20s. under s. 2.

The Purchase of Prohibited Goods.

WITHIN THE last few days, as appearing from a New York report, it has been decided for the first time in the United States that to buy intoxicating liquor is not an offence against the prohibition law, except when the purchase agreement involves the transport of liquor. In the case considered the purchaser was in fact found guilty of a conspiracy with the vendor to transport the liquor, and fined 200 dollars. Neither vendor nor purchaser could have been found guilty of an offence in England, but our law in analogous cases may be of interest, for example with regard to dangerous drugs and indecent publications, the traffic in which is either strictly regulated or prohibited. Possession of a dangerous drug by an unlicensed person, unless duly supplied to him on a doctor's prescription, is forbidden under penalty by r. 7 of the regulations made under s. 7 of the Dangerous Drugs Act, 1920 (by amendment even the attempt to take possession is forbidden), and s. 5 of that Act provides a similar penalty in respect of prepared opium. Possibly also s. 33 of the

Larceny Act, 1916, which forbids receiving any property "knowing" the same to have been . . . obtained in any way whatever under circumstances which amount to felony or misdemeanour, might be applicable. Knowledge that the loiterer who peddled cocaine in the street or a dance club was not a licensed person might perhaps be imputed, and, if the American law were as wide as ours, the bootlegger's customer should, *ipso facto*, be an offender against it. Possession of indecent publications is not an offence, though if there is an intent to publish, they may be destroyed. This section would no doubt be applicable against anyone who deliberately procured the import of an indecent book for his own possession.

The Fencing of Power Presses.

THE RECENT decision of the Divisional Court in *Taylor* v. *Jones* re-affirms the absolute duty of fencing dangerous machinery imposed by the Factory and Workshop Act, 1901, s. 10. The Coleshill magistrates had dismissed an information by the appellant, a lady factory inspector, alleging that the respondent, a die presser, had committed a breach of the Act in not providing a fence for a power press. The Solicitor-General explained that one of the respondent's employees, in operating the power press, caught one of his thumbs between the dies, and lost the thumb in consequence. The press was not fenced, but it was agreed that notices were exhibited all over the building stating that men on power presses should operate and control them with both hands, but the injured man had failed to do this at the time of the accident. The magistrates, overlooking the fact that the machine was not fenced, had held that all reasonable precautions were taken by the respondent to prevent accidents, and had therefore dismissed the summons. Mr. J. G. HURST, K.C., contended for the respondent that the power press was not a dangerous machine within the Act, in accordance with the finding of fact in the court below, and it was significant that the respondent had carried on business for thirty years without accident, although he employed forty-two men. Lord HEWART, L.C.J., in giving the judgment of himself, Mr. Justice AVORY and Mr. Justice ACTON, observed that precautions had been taken by the respondent to prevent something which was now alleged not to exist, but the necessity for the precautions showed that the machine was dangerous, and as the magistrates had misdirected themselves on the question of fact the case was remitted with a direction to convict. The judgment shows that the issue is, not whether the machine is dangerous when the accident happens, but whether it is so in character, and any other precautions taken are therefore a serious obstacle to the dismissal of a summons for failure to fence.

Murder Verdict Without Trial.

AN UNUSUAL situation recently arose at Aberbargoed on the resumed inquest on a child which had died from the effects of violence. The inquest had been previously opened and adjourned under the Coroners (Amendment) Act, 1926, s. 20, to await the result of proceedings against the mother. The latter had been committed by the magistrates to the November assizes on a charge of wilful murder, but in the meantime she was removed to an asylum by order of the Home Secretary. The coroner explained to the jury that the above Act enabled the inquest to proceed, so that a verdict might be found in accordance with the result of the trial, but as no indictment had been preferred, there had been no proper termination to the criminal proceedings. He suggested that the proper course would have been to prefer a formal accusation, and for the assize jury to have found a verdict of "Guilty, but insane," but as matters stood he would have to issue a warrant against the mother, bind over the superintendent to prosecute, and the witnesses to appear and give evidence. The draftsman of the Act had obviously not thought of the possibility of the removal of a person to an asylum, which was a rare occurrence, but to avoid the above farcical procedure the coroner stated that he had communicated with the authorities, and they agreed that it would only be necessary for the cause of death to be certified by the coroner's jury, who accordingly returned a verdict of wilful murder. It is to be observed that under the above Act, s. 20 (5), it shall be the duty of the clerk of assize to inform the coroner of the result of the proceedings, and that under s. 20 (4) if, having regard to this result, the coroner decides not to resume the inquest, he shall furnish the registrar of deaths with a certificate stating the necessary particulars. The removal of a person to an asylum, however, is not a "result" within the above sub-sections, and to this extent there is a loop-hole in the Act.

Procedure under the Probation of Offenders Act.

THE DIVISIONAL COURT considered the above question in the recent case of *Preston* v. *Jackson*, being the appeal in a case previously noted (72 SOL. J., p. 634) under the title "The Ingredients of Vinegar." The Atherstone magistrates had dismissed a summons against the respondents for selling table vinegar which was 100 per cent. artificial, their grounds being: (1) there was no legal standard under the Food and Drugs Acts, (2) guilty knowledge had not been proved, (3) the respondent had acted in good faith, and there was no reason for inflicting a penalty. It was contended for the appellant inspector that the decision was wrong in view of the county analyst's evidence that three grades of vinegar existed, but the respondent's case was that the decision could not be disturbed, as the bench had acted under the Probation of Offenders Act, 1907. Lord HEWART pointed out, that according to the case stated, the information was dismissed for the reason that the bench thought no offence had been committed, there being no mention of the above Act. The respondent did not dispute that the vinegar was 100 per cent. artificial, and as he called no evidence the bench should have found the case proved on the uncontradicted facts, and it was remitted with a direction to that effect. We do not think that s. 1 (1) of the Act is very happily worded, as a condition precedent to its operation is that the court must find the charge proved, whereupon the court may, without proceeding to conviction, either (i) dismiss the charge, or (ii) discharge the offender conditionally on his entering into a recognisance, i.e., bind him over. It is therefore not always clear whether the bench are dismissing a case because it is not proved, or in exercise of their powers under the above section, and the effect of the above judgment appears to be that it may be actually better for a defendant if the case against him be proved. There is certainly a widespread impression that this involves a conviction, even if no penalty be inflicted, but the section expressly states that the court may act without proceeding to conviction. It therefore remains a matter for local public opinion as to whether the proof of the charge nevertheless constitutes a stain on the defendant's character.

Deduction of Trade Union Subscription from Seamen's Wages.

THE LEGALITY of the above was upheld in the recent test case of *Harper* v. *Charente Steamship Co., Ltd.*, at Liverpool. The complainant's claim was for £1 as the balance of wages in respect of a voyage in the s.s. "Logician" from 20th June to 23rd October, 1928, the deduction having been made under a contribution form signed by the complainant before sailing, whereby he authorised the defendants to pay £1 to the National Union of Seamen. While on the way to and from the West Indies the complainant objected to paying the amount, and when signing off he repeated the protest and claimed to be entitled to revoke his previous direction, although he signed the master's account book showing the deduction. The stipendiary magistrate, Mr. STUART DEACON stated that the defendants either belonged to or observed the rules of the National Maritime Board, which stipulated that vessels whose owners were in the position of the defendants should be

manned by members of a trade union affiliated to the Board. The complainant belonged to such a union, viz., the National Union of Seamen, although his subscriptions were in arrear, and there was nothing in the Merchant Shipping Acts that would render inoperative an agreement such as the direction form signed by the complainant. The latter's case was that the ship's master was only the agent for the complainant and not for the union, so that the complainant could revoke the agency at any time before the £1 was paid to the union. The learned magistrate held, however, that the complainant had entered into a binding agreement, which he was not entitled to repudiate after signing the account book, the master being equally the agent for the union, and judgment was therefore given for the defendants without costs. It transpired that the complainant's case was not being fought by the Transport and General Workers Union, but that the defendants were supported by the National Union of Seamen.

Notional Delivery on Sale of Goods.

A SYMBOLIC delivery of goods was held to be valid in the recent case of *Holland* v. *Eaton* at Nantwich County Court, in which a cheese factor claimed £42 15s. from a farm produce dealer as the price of eighteen cheeses sold and delivered at 11½d. per lb. The plaintiff's case was that the defendant had marked the goods with his initials, which in the custom of the Cheshire cheese trade signified a completed purchase, but the defendant failed to take up the cheeses and after a sharp drop in the price he refused them altogether. The expert evidence was that a factor who saw the initials would infer that the cheeses were sold, but the defendant contended that the markings were only evidence of an intention to make a further inspection, and that he had bought cheese from the plaintiff for years on that basis. His Honour Judge WHITMORE RICHARDS held that the markings constituted a sale and complete delivery, and he therefore gave judgment for the plaintiff. It should be noted, however, that a constructive delivery which would be valid under the Sale of Goods Act, 1893, s. 29 (3), may be defeated by the application of another section, as in the recent case of *Barrow, Lane and Ballard, Ltd.* v. *Phillip Phillips & Co., Ltd.*, 72 SOL. J. 874. The plaintiffs bought some nuts, which they resold while still at the docks on the 11th October to the defendants. The latter accepted two bills, in exchange for a delivery order, on the 12th October, but on attempting to take possession on the 6th December they found that 550 out of 700 bags were missing. In fact 109 bags had already been stolen on the 11th October, but neither of the parties knew this and the plaintiffs therefore sued for the price on the two bills. Their case was that they had sold a "lot" of an unascertained amount, the property in which was passed to the defendants on the 11th or the 12th October by means of the delivery order. The case for the defendants was that as they had bought 700 bags, some of which were not in existence before the sale, they were not only absolved from taking the balance, but were free from all liability. Mr. Justice WRIGHT held that there was an entire contract for the sale of the 700 bags, and not the 591 bags available on the 11th October. The position was the same as if the 700 bags had perished without the knowledge of the parties at the date of the contract, which was therefore void under the above Act, s. 6, and the defendants were not liable.

The British Museum Library.

IN VIEW of the enormous accessions made each year by the Library of the British Museum through the operation of the Copyright Acts, by which publishers are bound to send, and the Library authorities are bound to receive, a copy of every book, magazine and newspaper published in the United Kingdom, the Trustees are submitting to the Royal Commission on National Museums and Galleries a scheme for the reorganisation and expansion of the shelf accommodation in the reading room, so as to ease the strain which the continued growth of the Library makes on the space allotted to books and newspapers. This great institution, the praises of which have been celebrated by all those who have made use of the Library, originated in the reign of GEORGE II, being formed of three large collections of books and manuscripts, known as the Sloane, Cottonian and Harleian, most of which being purchased by the nation out of funds raised by a lottery. Its government is in the hands of a body of Trustees; these are partly *ex officio*—including the Archbishop of Canterbury, the Lord Chancellor and the Speaker of the House of Commons for the time being—and a certain number representing the families who have been generous donors to the Museum; and certain others who are co-opted. To be co-opted a Trustee of the British Museum has long been regarded as a mark of distinction in the literary and scientific world. The constitution of this governing body has been adversely criticised by, among others, MACAULAY, himself a trustee, who made the characteristically sweeping statement that "all boards are bad, and this is the worst of boards." "If I live," he continued, "I will see whether I cannot work a reform here." No reform has been made, and, like many another institution made the subject of hostile criticism, it has worked, and continues to work, with efficiency and satisfaction to the nation. Indeed, so much impressed by the organisation and work of the trustees was PROSPER MERIMÉE, the distinguished French savant, that he tried to introduce a similar system of government for the Imperial Library in Paris during the Second Empire, but he found the opposition too strong for him. The Library, and particularly the reading room under the great dome, is the greatest literary workshop in the world, access to which is free by ticket to "all studious and curious persons" properly recommended in writing. The Trustees have however a discretion in the matter of granting such tickets, and cannot be compelled by mandamus to issue a ticket to a person who in their judgment is for any reason not a fit person to receive it.

Creating Ill-feeling.

A *Times* paragraph records the delivery of judgment by a special magistrate in Surat (Bombay) against one Dr. RAOJI, President of the Surat Hindu Sabha, finding him guilty of creating ill-feeling between two classes of the King's subjects, and sentencing him to rigorous imprisonment. The case suggests great possibilities. There are so many ways in which one can, either designedly or by accident, create ill-feeling between classes, that few of us could hope to escape criminal proceedings if we had a similar law zealously enforced in this country. Lawyers would have to exercise their ingenuity first of all in arriving at some sort of definition of classes. The methods of division seem almost unlimited. There are, to take a few instances, motorists and pedestrians, teetotallers and drunkards, smokers and non-smokers, highbrows and lowbrows, doctors and patients, or lawyers and laymen. To cause ill-feeling between them is fatally easy. An ostentatious motor-car hooting loudly at an absent-minded pedestrian sets ill-feeling registering merrily. So does a passenger with a foul pipe in a non-smoking carriage in a railway train, or a light-minded *raconteur* in an assembly of savants. As for lawyers and laymen, there can be only very rare instances in which the layman who is defeated by the wiles of the lawyer does not develop intense and lasting hatred of the whole class of lawyers. And so we might go on. The question of intention would be the next problem for the judge or magistrate, followed by arguments as to ill-feeling as distinguished from temporary annoyance. Lawyers would soon add to the list of knotty points, and judges and magistrates between them would quickly establish quite a body of case-law. But perhaps as we have no "special magistrates" in England we shall be thought hardly capable of administering such a difficult law; in which case the creation of ill-feeling will go on as heartily—and as harmlessly—as ever.

Landlord and Tenant Act, 1927.

By S. P. J. MERLIN, Barrister-at-Law.

X.

The Conduct of a Claim by a Tenant for a New Lease—with Suggestions as to Evidence.

Having regard to the great number of cases in which tenants otherwise eligible as claimants have omitted during the past year to give the due and necessary notice of claim to monetary compensation under s. 4, or a new lease under s. 5, it cannot—even at the cost of repetition—be too strongly emphasised that the closest care should be taken, at the very earliest advent of a tenant client, to ensure that the *appropriate* notice is duly given and in the manner prescribed by the Act, namely, (1) In the case of a tenancy terminated by *notice* within one month after the *service* of the notice on the tenant, or (2) in any other case not more than thirty-six months nor less than twelve months before the termination of the tenancy. (See s. 4 (1).)

A fruitful source of trouble to tenants is the practice (which has recently grown up in this class of case) among some landlords of serving notices long before they need do so. For example, in cases of yearly tenancies requiring six months' notice terminating at the end of a full year of the tenancy, notices are now frequently given twelve months prior to the end of the tenancy, that is to say, six months before the notice itself begins to run and operate as such. Many tenants in such cases have overlooked the fact that they are bound by the Act to make their claims *within one month of the service of the notice*, and not within one month of the date when the notice begins to run against them.

It will be convenient to outline the conduct of a claim for a new lease under s. 5 by dealing with the essential steps in chronological order.

Firstly, the notice of claim must be given within the time prescribed as above mentioned, and it must contain :—

(*a*) A description of the holding in respect of which the claim arises and of the trade or business carried on upon the holding ; and

(*b*) a concise statement of the nature of the claim.

All claims must be *in writing* signed by the person making or giving the same, *or his solicitor, or his agent.*

The next provision to be noted as to the time and manner of prosecuting the claim is contained in sub-s. (2) of s. 5, which, cut down, says, that where such a notice is so served, the tribunal, on application being made either by the landlord or the tenant not less than nine months before the termination of the tenancy, or, where the tenancy is terminated by notice, within two months after the service of the notice may . . . order the grant of a new tenancy, etc.

Rule 5 (4) of the County Court Rules is misleading where a new lease is claimed, and should be read in conjunction with the above sub-s. (2). It is more applicable to a claim under s. 4, although the heading to Pt. II of the said Rules includes a reference to s. 5 as well.

After the lapse of the prescribed interval the tenant would be wise in most cases to file his particulars of claim promptly, so as to give himself and the court a margin of time to implement the Act or to negotiate an amicable settlement. The particulars of claim should follow the form given in the appendix to the County Court Rules (see Form 468), and should contain and state *inter alia* the date of lease or agreement for tenancy of holding ; the names and addresses of parties to lease or agreement, the term granted, the rent reserved, the date and mode of termination of tenancy, the date of notice (if any) terminating the tenancy, the purpose for which the holding was used, the date of service of notice of claim, and that a new lease for fourteen years is claimed.

Once the claim is made or launched the tenant should consider the question whether it is advisable for him to make an offer within the meaning of r. 32 (2) of the County Court Rules, which provides that "If either party has made an unconditional offer in writing to the other party which the other party has refused and the judge is of opinion, having regard to the result of the proceedings before the court that the offer should have been accepted, the judge may order the party so refusing to bear his own costs and to pay the costs of the other party so far as they were incurred after the offer was made and in the opinion of the judge would not have been incurred had the offer been accepted."

Having filed his particulars of claim the tenant is then entitled to have notice—to a certain extent—of what the landlord's defence is going to be. Rule 9 of the said County Court Rules says :—

> "Within fourteen days after service on him of the summons every defendant may file a statement of his grounds of defence (if any) and also a statement (with particulars) of any counter-claim or set-off which he may have, including any claim under section 11 of the Act.
>
> "Subject to any statement so filed the particulars of the plaintiff shall, unless the court otherwise orders, be deemed to be admitted."

Assuming that the landlord has filed a defence merely putting forward the plea that the tenant is not entitled to a new lease (and has not set up the more formidable defence of an intention to occupy the premises himself, or to rebuild or remodel them) the tenant should consider whether he wants the matter referred to one of the panel of referees appointed under the Act (who is selected by the registrar of the county court wherein the proceedings commenced) or whether he would prefer to have it decided by the county court judge (if he will take it) or otherwise : See County Court Rule 11.

In order to prove a *primâ facie* case in support of his claim for a new lease a tenant must show :—

(1) That he is a suitable tenant ;

(2) That he would be entitled to monetary compensation under s. 4 of the Act ; and

(3) That such compensation as could be awarded to him under s. 4 would not compensate him for the loss he would suffer if he removed to and carried on his trade or business in other premises.

As to the issue whether a tenant is a "suitable tenant" it would probably suffice in the ordinary run of cases for the tenant to show that he had duly paid his rent and kept his covenants during his tenancy. But in some cases where the landlord can show that the development and progress of the neighbourhood surrounding the *locus in quo* has changed the position so greatly as to make the "user" hitherto given to the premises an unsuitable user, it might be held that in some such cases the tenant would not be a "suitable tenant" within the meaning of s. 5 (3), e.g., suppose an old-established seventeenth century smithy still lingered immediately behind Regent Street, when it was recently re-modelled, it would probably have been held that, if the space it occupied was required for the extension of one of the front shops, such a tenancy would not be a "suitable" one.

When preparing his evidence in support of propositions numbers (2) and (3) above set out, the tenant must bear in mind that under s. 4 the amount of the compensation which he may obtain under that section for the loss of his goodwill is limited, in the best of cases, to the value of this goodwill to the landlord. Therefore, he must, in order to bring his case within s. 5 (as claimant for a new lease) show that a gap exists between the value of the goodwill created by him at the premises in question (and available to him if he continues in occupation) and the value of this goodwill to the landlord, for the purpose of re-letting at a higher rent to another tenant. This he may possibly be able to do in some cases by calling, say, two or three typical customers to state that it will not be convenient for them to follow him to his new premises, and

that they will not continue to patronise the old premises on his departure. Furthermore, a business transfer agent of experience and standing in the trade under review should also be called to give such existent reasons as he can probably adduce to prove this "gap" above mentioned. Sometimes the tenant will probably be able to crave in aid the advantageous *situation* of the premises, and the absence of any similar alternative accommodation in the district, as proof of this gap.

Radius Agreements.

THE word "radius" is not a legal term of art to describe a particular kind of contract, and the indexes of most of the classical works on the subject may be sought in vain for it. The expression "radius agreement" is, however, very extensively used in trade to indicate that class of agreement in which a servant or person in employment is restrained, after the employment has ceased, from conducting a similar business within certain limits of time and space. The forbidden limits of space are usually indicated by a circle of definite radius, of which the place of business forms the centre, and hence the term. It is used here because it concisely and conveniently indicates a particular kind of agreement in restraint of trade for which lawyers have not found a better name.

Of this kind of agreement Sir FREDERICK POLLOCK has written ("Contract," 9th ed., 1921, p. 424) that it "presents a singular example of the common law, without aid from legislation and without any manifest discontinuity, having practically reversed its older doctrine in deference to the changed conditions of society and the requirements of modern commerce."

The older doctrine was, of course, that agreements in restraint of trade were altogether void, and Sir FREDERICK quotes the classical expletive of HULL, J., in *Dyer's Case*, 1415, year-book 2 Hen. V, in reference to a bond conditioned that the defendant should not use his craft as a dyer in the same town with the plaintiff for half a year. The judge said: "To my mind you might have demurred to him that the obligation is void because the condition is against the common law; and *per Dieu*, if the plaintiff were here he should go to prison till he had made fine to the King." This restriction would, of course, now be deemed a radius agreement of a very mild character.

The above quotation from the latest edition of Sir FREDERICK'S work on contract also appears in some earlier ones; it might, however, have received the addition that, not only did the common law take the journey from no protection to full protection of the covenantee from the fifteenth to the nineteenth centuries, but, since the end of the nineteenth century, it has travelled, if not quite, then nearly, all the way back again. In the result, the covenantee who at the end of the nineteenth century might have been very confidently advised that a certain restriction would be upheld in the courts, might now receive an exactly contrary opinion, with the addendum that it was dangerous to make even one doubtful restriction, the tendency being for judges to hold that restrictions in a radius agreement stand or fall as a whole, so that one flaw leaves the covenantee without any protection.

The issue on such a point depends entirely on case law, and there are not many branches in which there are more reported decisions. Unfortunately, because of the change of doctrine in the last twenty or thirty years, the value of the authorities, other than those in the House of Lords or the most modern, must be a matter of doubt in each case. Even so lately as twenty-two years ago NEVILLE, J., after protest ("There is no branch of the law I am called upon to administer that I administer with more reluctance than I do that in this case") decided that, in an issue between master and servant, all he had to consider was whether such a covenant was to the interest of the employer and for the reasonable protection of his trade from competition: see *Henry Leetham & Sons, Ltd.* v. *Johnson-White*, 1907, 1 Ch. 189. It is true that his decision was at once reversed by the Court of Appeal (*ib.*, p. 322), but on the ground that one only of a linked group of companies doing the same business in different localities was in the position of the covenantee to be protected, and that the covenant, which was framed to protect all was, therefore, too wide. There is nothing, however, in the judgments in the Court of Appeal to indicate that, if the linked companies had in fact been one company, namely, the covenantee, that the covenant, would have been too wide, though its restrictions on the covenantor would have been exactly the same. The doctrine of NEVILLE, J., as to the paramount importance of protection to the covenantee was not therefore repudiated by the Court of Appeal.

The change of doctrine is perhaps most fully and clearly stated in the long judgment of Lord BLANESBURGH, then YOUNGER, L.J., in *Attwood* v. *Lamont*, 1920, 3 K.B. 571, a judgment, in which ATKIN, L.J. concurred. In the course of it he observed: "Recent decisions of the House of Lords upon the invalidity of many of these covenants when imposed upon employees in contracts of service, have, as I read them, effected, in more than one aspect of the subject, a much more fundamental change in hitherto accepted views upon it than has seemed to the learned judges of the Divisional Court to have been the case . . . We are here dealing with a branch of law which has at all times been peculiarly susceptible to influence from current views of public policy. Its modern developments have grown up under the shadow of the *laisser faire* school of economies, and, until recently, have in consequence been uniformly in the direction of extending the principle of freedom of contract . . . the House of Lords took the opportunity in 1913, when the validity of a restrictive covenant entered into by an employee came in question before it, to examine the whole problem afresh, with the result that the supreme tribunal, for the guidance of every court, has now placed upon the permissibility of such covenants a limit which the general interest, including, of course, that of the employees themselves, had not previously seemed to require" (pp. 581-2). The reference to the case of 1913 was, of course, to *Mason's Case*, 1913, A.C. 724, which was followed, if not extended, in *Morris* v. *Saxelby*, 1916, 1 A.C. 688. All these decisions emphasise the sharp distinction of the attitude in which a judge must now approach consideration of a radius agreement between master and servant, and one between vendor and purchaser. As to the latter class of agreement, all that need be said here is that, unless a purchaser of a business can effectively bind himself against the competition of the vendor, a goodwill becomes practically unsaleable. This distinction was almost, if not quite, absent in the older decisions as to employees, and the *Nordenfelt Case*, 1894, A.C. 535, one concerning the sale of a goodwill, was constantly quoted as governing the radius agreements between master and servant. Lord BLANESBURGH'S judgment in *Attwood* v. *Lamont*, *supra*, gives the history of the conflicting views of Lord MACNAGHTEN and Lord BOWEN, and the ultimate adoption of the former's as authoritative. This appears, and the conclusions are summarised, on pp. 588-9 of the report. The most important, as the judge himself points out, is that an employer can no longer forbid the simple competition of a former employee, even though the employment has made the employee a competitor tenfold more formidable than when he entered it. The use of trade secrets or lists of customers, the latter for the purposes of solicitation, are, of course, different matters. The distinction is dealt with in Lord ATKINSON'S judgment in *Morris* v. *Saxelby*, *supra*, pp. 702-4. As to the general principle, see also *Bowler* v. *Lovegrove*, 1921, 1 Ch. 642, especially pp. 651-3.

The practitioner has therefore the formidable difficulty in advising on or settling any restrictive covenant that the older

cases, based on Lord BOWEN'S doctrine, have not expressly been over-ruled, but the foundation principles on which they have been decided have been knocked out from under them. These cases are now, therefore, quite unreliable, but there is no danger-signal. The recent decisions, in fact, throw doubt on the efficacy of the radius agreement in a contract of service altogether. For in so far as it forbids fair competition, it is now held invalid, while a veto on unfair competition, such as the use of the employer's trade secrets or lists of customers, will be restrained without such an agreement—*e.g.*, as in *Robb* v. *Green*, 1895, 2 Q.B. 315, and *Amber Co.* v. *Mentozel*, 1913, 2 Ch. 239. If, therefore, the wheel has not travelled full circle from the *Dyer's Case*, *supra*, through, for example, *Mumford* v. *Gething*, 1859, 7 C.B. (N.S.) 305 (see especially the judgment of ERLE, C.J., at p. 319), to *Attwood* v. *Lamont*, which appears to re-establish the doctrine of the *Dyer's Case*, without the expletive and the reference to imprisonment, it has very nearly done so. It is fair to mention, however, that there is some difficulty in reconciling the modern current of authority with *Fitch* v. *Dewes*, 1921, 2 A.C. 138, a test case in which a solicitor, formerly in the employment of another solicitor, was held validly restrained for life from practising within a radius of 7 miles from Tamworth Town Hall. This can perhaps be reconciled with the judgment of YOUNGER, L.J., in *Attwood* v. *Lamont* on the footing that a solicitor's business is so personal that the competition of a former employee in the same small town is necessarily unfair, though the learned judge himself appears also to rely on the restriction being, like the young lady's baby, a very small one, see *Dewes* v. *Fitch*, 1920, 2 Ch. 139, at p. 186. It may be convenient, however, to consider the cases relating to the professional agreements of solicitors in relation to their businesses, whether as vendors and purchasers, or partners, or with their employees, in a separate article.

Legal Liability for Gas Explosions.

THE one certain consequence of the Holborn gas explosion is that an enormous sum of money must be spent in repairing the damage. That needed to restore the streets alone has been estimated at £50,000, which probably does not include the sums necessary to mend the complicated systems of sewers, pipes, mains, cables and conduits underneath them. Above the surface also, house property has been damaged.

A Board of Trade Commission is holding a public inquiry, but it has been announced that it will not deal with the legal side of the explosion. Indeed, such a commission could hardly do so; if certain legal rights have arisen as the result of the accident, the committee could not interfere with them, nor would either a judge or jury be bound by their finding.

Starting with the proposition that a statutory corporation is liable in the ordinary course for damage ensuing through the negligence of its officers or servants, no doubt a gas company would be so liable for such damage as might be done by the mere agency of gas, the escape of which was due to such negligence. Here, however, the damage was due to the contact of escaped gas with a spark or light, which caused the explosion.

In October, 1903, there was an explosion of escaped gas under the pavement of Regent Street, due to the use of a blow-lamp by a jointer in the employment of the telephone department of the Post Office, in either a manhole or underground telephone box. Two passers-by were injured and sued the gas company. The case, *Ogden* v. *Gas Light & Coke Co.*, appears to be reported in *The Times* newspaper only, before DARLING, J., 16th and 17th March, 1905, and on appeal, 4th July, 1906. Previously to the explosion, a complaint of gas escaping near the spot where it occurred had been made to the company, which caused investigation to be made, without result. The jury found negligence against the company, and judgment for the plaintiffs in an agreed sum was entered. On appeal, the court found there was evidence of negligence to justify the verdict. The point was then taken that the negligence of the company in permitting the escape of gas was not the proximate cause of the explosion, but the carelessness of the Post Office employee with the blow-lamp. Assuming the fact of such carelessness, however, the court still held the company fully liable on its own negligence. The question whether the company could have claimed indemnity or contribution from a co-tortfeasor might have been of interest, but in this particular case the matter was concluded by the law laid down in *Bainbridge* v. *The Postmaster-General*, 1906, 1 K.B. 178, to the effect that the Postmaster-General cannot be sued for wrongful acts done by his subordinates. This of course arises from the proposition that "the King can do no wrong," which a select committee has recently held to cause hardship and injustice to the subject: see *ante*, p. 478.

In the present case, therefore, there will be a primary issue whether the company was guilty of negligence in that its servants allowed the gas to escape. If this question is answered in the affirmative, it will be difficult for the company to escape liability on the lines of the *Ogden Case* above. It may be, however, that, in fulfilment of their statutory duties, the company is obliged to fill their mains with gas at such pressure that, no matter what precautions are taken, some escape is inevitable. In the *Ogden Case* it was testified that so little as half a cubic foot of gas might cause a very serious explosion, and in fact be more dangerous than a larger quantity, which might merely burn steadily. On the above hypothesis, the explosion might have taken place without any negligence on the part of the company.

If so, presumably the doctrine laid down in *Vaughan* v. *The Taff Vale Railway Co.*, 1860, 5 H. & N. 679 (as to a fire caused by sparks emitted from the funnel of a locomotive) would apply to exonerate the company and to exclude the ordinary law laid down in *Rylands* v. *Fletcher*, 1868, L.R. 3 H.L. 330. The particular hardship caused to farmers by the doctrine of *Vaughan's Case* has been since abolished by the Railway Fires Act of 1905, but the doctrine itself applies in other circumstances in favour of companies carrying on statutory undertakings.

If the gas company is not liable for the damage, and the Postmaster-General cannot be made so, presumably those who have suffered damage must bear the loss, so far as they are not covered by insurance. The public has been startled, and also alarmed, at the possibilities caused by the proximity, practically invariable in urban districts, of gas mains and electric wires. The dangers involved, and the way to avert them, will no doubt be fully considered by the Commission, and perhaps followed by legislation. The disadvantages of placing gas mains, sewers, electric wires, water mains and pipes of hydraulic companies promiscuously under streets vibrating with heavy traffic have of course long been obvious, but any sudden change of system may probably be regarded as altogether beyond the scope of our present resources.

Books Received.

The Companies Diary and Agenda Book, 1929. 46th year. HERBERT W. JORDAN. Jordan & Sons, Ltd. Cloth covers, 6s. 6d. (post free); boards, 4s. 6d.

Inland Revenue. The Income Tax Act, 1918, and Finance Acts. Supplement No. 3, comprising (1) Text of the Income Tax, Super Tax and Sur-Tax Provisions of the Finance Act, 1928, (2) Statutory Regulations and Orders, (3) Supplement to Index, superseding Indexings in Supplement No. 2, (4) Manuscript Amendments, (5) Reprinted Pages, and (6) Cross References. H.M. Stationery Office. 2s. net.

A Conveyancer's Diary.

Requisitions on Title.

In a recent issue we published a letter severely criticising the use of common form requisitions on title. We do not hold all our correspondent's views on this subject, but his letter gives us an opening for a few remarks on the use of precedents in general and of common form requisitions on title and conditions of sale in particular.

It is a bad workman that complains of his tools, and our correspondent's letter reminds us that the printing press has given to the profession a sharp instrument, that if used unskilfully may be productive of much harm; moreover, when inartificially used, common form conditions and requisitions may be the cause of much unnecessary waste of time.

If, on the other hand, they are in the hands of a draftsman who knows his work, printed common forms are exceedingly useful in practice.

These considerations lead us to offer a few suggestions on the use of these forms.

First, the most apt criticism that can be levelled at printed forms is that they are inclined to encourage carelessness. Everyone knows the name of the man who has drafted them. He is usually a person of undoubted standing in the profession; but users of these forget that precedent forms must necessarily be very elementary, they cannot provide for the innumerable variations required in practice and, therefore, they usually require adaptation when applied to any specific case.

The practice of sending out common forms without the alterations required by the special circumstances of the case is much too common. How often those whose duty it is to advise on title find that, for requisitions on title to freehold land, some limited form applicable to leasehold and enfranchised land as well as to freeholds has been used without any alteration, by striking out the references to enfranchised land and leaseholds? This may make for safety when it is not known whether certain parts of the land were formerly copyhold or not, but in most cases it does no good, wastes the time of those responsible for answering the requisitions, and leads to much confusion.

It is quite easy to draw a line through the paragraphs that do not apply.

A further danger in the unskilled use of printed forms arises from the prevalent idea that these forms are foolproof. They are not so!

They require most skilful use and should not be put into the hands of anyone who is unable to draft precedents without their aid.

Often in practice one finds that important matters are omitted from them; that the user has omitted to put in something which, though not of general application, and therefore not printed in the form, is material for the specific case in point.

Each paragraph should be carefully examined and if necessary altered or deleted, and all necessary forms should be added as carefully as if the user of the forms was drafting the document without their aid.

When a purchaser of freehold land asks whether the manorial incidents have been extinguished this may give the vendor's solicitor an opportunity for exercising his wit, at the purchaser's expense, in the space left for the answer to the requisition, but otherwise no very great harm is done; but when the same carelessness results in a material omission then a purchaser may be seriously prejudiced.

We believe that the best and cheapest form of insurance against mistakes is the exercising of a little care, and this applies with considerable force to the use of common forms.

The above remarks apply to precedent books as well as to loose forms.

The advantages of the use of printed forms and precedents are as follows:—

(*a*) In the hands of a skilful draftsman they save much time. It is easier to cross out a form that is not required than to draft a new one, and certain forms are so frequently used that they may be said almost to be of general application to a particular class of land or other property, or in a particular case;

(*b*) They serve as reminders of what should generally, in common cases, be inserted in a draft;

(*c*) They save typing and general overhead office charges, and they reduce the risk of copying mistakes;

(*d*) Their provisions are widely known, thereby they avoid questions, and they are known to be reasonable and fair between the parties.

Their usefulness is attested, if proof be required, by their continued and increasing use.

If they are used carefully by competent persons and if they reduce legal costs and increase accuracy in legal matters, they will and ought to remain an established feature of legal practice in this country.

If, however, they are used unskilfully, the inevitable result will be to discredit them in the regard of the profession and to damage the interests of lay clients.

Landlord and Tenant Notebook.

Onus of Proof in Apportionment Cases.

The decision of the Divisional Court in *Platman* v. *Frohmann*, 166 L.T. 469, must be considered to be of extreme importance, because it deals with the vexed question as to the onus of proof in apportionment cases.

The material facts in *Platman* v. *Frohmann* were briefly as follows:—

The respondent was the tenant of a house within the Rent Restrictions Acts. In 1926 he let three rooms to the appellant at a rent of £1 per week. Subsequently in June, 1928, the appellant demanded a statement in writing of the standard rent of the rooms in question, as he was entitled to do, under s. 11 of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920. That section provides that "a landlord of any dwelling-house to which the Act applies shall, on being so requested in writing by the tenant of the dwelling-house, supply him with a statement in writing as to what is the standard rent of the dwelling-house, and if, *without reasonable excuse*, he fails within fourteen days to do so, or supplies a statement which is false in any material particular, he shall be liable on summary conviction to a fine not exceeding ten pounds."

The appellant duly gave a written statement as to the standard rent of the rooms in question, but the respondent, not being satisfied therewith applied to the court for an apportionment.

At the hearing the respondent proved merely that on the 3rd August, 1914, the whole house had been let to the appellant at a rent of £70, and on this evidence an order for apportionment was made. The point was urged on behalf of the landlord that the tenant had not sufficiently discharged the onus of proof resting on him, by showing merely that the premises were let as a whole in 1914, and that part thereof were not let to him. It was contended that the tenant had to go further than this and prove that the part in question had not been let as a separate dwelling in 1914. The Divisional Court, however, declined to accept this view, and held that once the tenant on the application for an apportionment proved that the whole house had been let in August, 1914, and the rent at which it was so let, the tenant had sufficiently discharged the onus resting on him, and the onus thereupon shifted to the landlord to prove if he could that the rooms in question, in respect of which an apportionment was being asked, had been let separately in 1914, and had therefore a separate standard rent of their own, so that no order for apportionment could be made in respect of them.

The point is an extremely important one, and it is difficult to determine what are the correct rules with regard to the onus of proof in such cases, though, of course, for the present these rules must be determined according to the ruling of the Divisional Court.

The Rent Acts themselves do not afford any clear guide as to how this onus is to be discharged. Section 12 (3) of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, is the material section, and provides that " where for the purpose of determining the standard rent or rateable value of any dwelling-house to which this Act applies, it is necessary to apportion the rent at the date in relation to which the standard rent is to be fixed, or the rateable value of the property in which that dwelling-house is comprised, the county court may, on application by *either party*, make such apportionment as seems just . . . " It is clear therefore that the right to demand an apportionment is not confined to the tenant alone, but may be exercised by the landlord as well, but what must be proved by the applicant for apportionment is by no means clear.

According to the general principle of onus of proof, viz., *Ei incumbit probatio, qui dicit, non qui negat*, it would appear that the decision of the Divisional Court is right. But at the same time, it must be pointed out that that decision might in some cases cause hardship, as, for example, where the previous history of the premises is not clearly known, so that there may be cases where rooms have been let separately in 1914, but in respect of which an apportionment must be ordered, because of the means of proof not being available at the time to the landlord.

Our County Court Letter.

JURISDICTION TO ORDER NEW TRIAL.

THE Divisional Court have upheld the decision of His Honour Judge DYER, K.C., in the case of *Griffiths* v. *Green*, at Birmingham County Court. In a remitted action from the High Court the evidence was that the boy plaintiff was out cycling with a friend, and was injured in a collision with the defendant's motor car, the verdict of the jury being that the defendant was negligent, and that although the plaintiff was guilty of contributory negligence, the defendant could have avoided that negligence, and the damages were assessed at £772. The defendant applied for a new trial on the grounds (*a*) that the verdict was against the weight of evidence, and (*b*) that the damages were excessive, but the application was refused by the learned County Court judge. From this refusal the defendant appealed to the Divisional Court, on the grounds that there was no evidence to support the jury's findings that there was negligence on the part of the defendant, or that the defendant could have avoided the contributory negligence of the plaintiff. For the plaintiff respondent a preliminary objection was taken that the grounds advanced for a new trial, viz., (*a*) and (*b*) *supra*, were both questions of fact upon which there was no appeal from the refusal to grant a new trial. Mr. Justice SWIFT held that the County Court judge had no power to grant a new trial upon the grounds put forward, and Mr. Justice ACTON concurred in dismissing the appeal.

The County Courts Act, 1888, s. 93, provides that every judgment and order of the court, except as in the Act provided, shall be final and conclusive between the parties, the exception being created by s. 120, which states that if any party shall be dissatisfied with the determination of the judge in point of law, or upon the admission or rejection of any evidence, the party aggrieved may appeal to the High Court. A still larger inroad upon the first part of s. 93 is made by the final sentence of the same section, viz., the judge shall also, in every case whatever, have the power to order a new trial upon such terms as he shall think reasonable. The effect is that although his judicial discretion is unfettered, he must act on well-defined principles, and he cannot for example so utilise his power as to allow an appeal on a question of fact.

The contention that the County Court judge had adopted the latter course was advanced, but unsuccessfully, in *Sanatorium Ltd.* v. *Marshall*, 60 SOL. J. 568. The plaintiff claimed £24 for breach of warranty on the sale of a horse, and the County Court judge held that as the horse had a cold when delivered it was showing symptons of broken wind. He therefore gave judgment for the plaintiff, but subsequently granted a new trial for the reason that he had misdirected himself, as the fact of the horse having a cold was no evidence of its being also broken-winded. The plaintiff appealed on the ground that the judge was in effect reversing his finding of fact, but the Divisional Court held that as the County Court judge had admittedly made a mistake the new trial was rightly ordered. The present Lord Justice SANKEY pointed out that although a County Court judge cannot change his mind and reverse his decision, the above circumstances would have justified a new trial in the High Court, and new trials in the County Court may be granted on the same grounds. This decision was followed by the Court of Appeal in *Astor* v. *Barrett*, 64 SOL. J. 738, in which the County Court judge had made a mistake in assessing the damages separately against joint tortfeasors, and was held to have rightly ordered a new trial.

The two last-named decisions belonged to the class of cases in which the appropriate remedy for a misdirection is a new trial, but there is another class in which the appropriate remedy is to appeal to the Divisional Court to enter up judgment for the opposite party. In *Clarke* v. *West Ham Corporation*, 58 SOL. J. 496, the County Court judge had held that there was evidence of negligence to go to the jury, and he subsequently gave judgment for the plaintiff for £50 in accordance with the verdict. The defendants applied for a new trial on the grounds that (*a*) there was no evidence of negligence; (*b*) the verdict was against the weight of evidence, but the County Court judge refused the order. The Divisional Court upheld his decision, as on ground (*a*) the proper remedy was to apply to the Divisional Court for judgment, the County Court judge having no power to give judgment for the defendants on an application for a new trial, and on ground (*b*) there was no appeal from the County Court judge's decision of fact.

Practice Notes.

ECCLESIASTICAL LAW AND THE PRESERVATION OF THE LANDSCAPE.

A WARNING against the blandishments of stonemasons was uttered in the recent case of *Barker* v. *Armistead* at Chester Consistory Court. The applicant claimed a faculty to erect a cross and surrounding curb of white Sicilian marble in an old part of Barthomley Churchyard over the graves of his sister and brother. The family considered they were within their rights, as the churchyard was a general burial ground, there being no distinction between one side and the other, and 75 per cent. of the stones in churchyards were white, including a stone 20 yards from the grave in question. The rector opposed with goodwill toward the applicant, whom he had hoped to persuade to erect something more appropriate, as on hearing about the white marble the respondent had notified the stone mason to do nothing until the family had been interviewed. The grave was in an old part of the churchyard, where there were no marble stones, and was right in front of a beautiful fifteenth century porch. A modern un-English stone was unfitted for the position, and white marble would not stand the climate and would become stained and weather-beaten. The Chancellor, Sir Philip Wilbraham-Baker-Wilbraham, stated that anyone who went round the country would say that the clergy had been very good-natured in allowing many memorials which, from an artistic point of view, ought never to have been erected. It was common

ground that the old part of Barthomley churchyard was practically free from anything white and conspicuous, except for one or two stones on the fringe, and as the distinctly English character of the place was worth preserving it was his duty to refuse the application. The learned Chancellor observed that the rector would probably not ask for costs, and that stonemasons should be careful to remind their customers to obtain the necessary consents before proceeding.

A PARTNER'S LIABILITY FOR THE FIRM'S DEBTS.

THE above subject was considered in the recent case of *Goldie* v. *Radford* at Wolverhampton County Court, in which the plaintiff claimed the assets of the Lightrays Musical Company as against the defendant, an execution creditor. The plaintiff had paid a deposit of £1, on account of £65, for a half-share in the last-named firm on the same day as the warrant for execution reached the High Bailiff from another court, and the plaintiff had subsequently paid into court £15 odd, to avoid a sale by the High Bailiff for the purpose of paying the execution creditor. His Honour Judge Tebbs held that the plaintiff had bought the assets for valuable consideration, in good faith, and without notice that the warrant lay unexecuted, and was therefore entitled to judgment and payment out of the £15, less the High Bailiff's costs. The above is a difficult type of case by reason of the alternative claims which may be advanced, and the conflicting nature of previous decisions. In *Flude Limited* v. *Goldberg*, 59 SOL. J. 691, the plaintiff's claim to the goods was resisted by one Isaacs as sole owner, but the jury found that the goods belonged to Goldberg and Isaacs as partners. The county court judge held that Isaacs had not made out his case and gave judgment for the plaintiffs, which was reversed by the Divisional Court, but upheld by the Court of Appeal. This decision was followed by Mr. Justice Rowlatt, but was distinguished by the Court of Appeal in *Peake* v. *Carter*, 1916, 1 K.B. 652. A new trial was ordered on the ground that *Fluke Limited* v. *Goldberg, supra*, depended on special facts and certain rules of county court procedure. Lord Justice Swinfen Eady (as he then was) re-affirmed the general rule that a claimant who fails on the title set up is not thereby estopped from relying on a title found to exist. The late Lord Sterndale, as Lord Justice Pickford, pointed out that partnership property cannot be seized, and that a creditor can only obtain an order charging the interest of the particular partner with the amount of the judgment debt.

Correspondence.

Requisitions on Title.

Sir,—All conveyancers will sympathise with the plaint against irrelevant requisitions raised by your correspondent Mr. Marshall in the issue of 22nd inst., for most of us have suffered when we have had to wade through such requisitions, often raised over properties small in value and of a quality to which they were not at all applicable, but in a busy office these printed requisitions have a value of their own and, if used with discretion and answered with courtesy, they certainly facilitate transfers and save correspondence. I think Mr. Marshall must be unfortunate in his experience in citing the usual requisition as to road making-up as a bad offender. It seems to me a most useful one, in fact so useful that it should be raised by the purchaser's solicitor on the draft contract and save some searchings of heart and unmerited reproaches by a purchaser subsequently learning that on the top of the purchase of a property worth say £800, situated in an apparently fairly well made-up suburban road, he is, soon after contract, called on to pay perhaps another £100 or so for road making charges based on a main and side "frontage." I have never yet experienced nor displayed any unwillingness to answer so fair a question; the answer may often be found amongst the vendor's own deeds or papers in the shape of vouchers or replies to similar queries when he himself purchased. Another requisition which ought to be raised by the purchaser's solicitor on the draft contract instead of afterwards, in view of a recent decision, where the transaction is in respect of town or suburban land, is whether it is affected by any restriction for town planning. It is not much satisfaction to a purchaser to know after he has signed the contract that under such a scheme his property may be seriously depreciated in one way or another without adequate compensation. These are two of the few questions (others being as to outgoings, insurance, etc.), which are now common form when applicable on settling draft contract for a purchaser, and if so dealt with Mr. Marshall is only reasonable in objecting to answer them again after contract. But if they should recur in the printed form it is easy to answer them by reference to the draft contract, and the requisitions thus form a record of all points of importance and much time may be subsequently saved thereby in hunting up drafts or correspondence. It really does behove the vendor to assist with such knowledge as he has of his own property and its history, although the information thus sought is not strictly a requisition on title or abstract. It is, no doubt, the experience of every conveyancer that questions do sometimes arise after a purchase is completed as to such matters as repairs, situation and system of drains, notices and so on, which, although not strictly requisitions on title, ought to be known by a purchaser before completion, and if they should be raised subsequently to completion a vendor might reasonably object to incur further charges to his solicitor in answering them, nay might even refuse to be troubled at all. But there is no doubt that there is great abuse of these printed requisitions. In a recent case of a transfer for small amount where the title was short and clear yet there were four pages of them to answer, while only one in ten was at all relevant.

College Hill, E.C.4. PERCY CLARKE.
31st December, 1928.

[We fully appreciate all Mr. Clarke says but think that if the purchasers made a formal inquiry of the clerk to the local authority in whose area the property is situate, before the contract was signed, he would readily ascertain whether there were any outstanding road or other charges, or whether the property was affected by any town planning scheme. After all, these are matters of record.—ED., *Sol. J.*]

Settled Land Grants.

Sir,—Referring to the letter of Mr. Sydney G. Thomas in your issue of the 29th, I cannot conceive what the Inland Revenue Affidavit has to do with the matter. The affidavit is submitted to the Estate Duty Department, and beyond seeing that it is stamped and passed (provisionally) by that department, the registrar has nothing to do with it. He grants probate on the oath for executor or administrator.

If anything is to be referred to in the grant, it could not be the affidavit, but the oath, and in the case of a general grant the latter should show either that there was no settled land, or that the land had ceased to be settled.

Norwich. ERNEST I. WATSON.
31st December, 1928.

Mortgage Costs.

Sir,—In "A Conveyancer's Diary" on page 854 of THE SOLICITORS' JOURNAL for 22nd December, you state that "A mortgagee is entitled to add to the principal secured by the mortgage the costs of preparing the mortgage." Is there any authority for this statement?

According to *Wales* v. *Carr*, 1902, 1 Ch. p. 860, the costs of preparing the mortgage "cannot be added by the mortgagee to his security as part of the costs, charges and expenses."

London, N.7. A. W. PORTER.
1st January.

POINTS IN PRACTICE.

Questions from Registered Annual Subscribers only are answered gratis. All questions should be typewritten (in duplicate), addressed to—The Assistant Editor, 29, Breams Buildings, E.C.4, and should contain the name and address of the subscriber. In matters of urgency, answers will be forwarded by post if a stamped addressed envelope is enclosed. The Editor accepts no responsibility for the replies given.

Liability of Farmer after Holding Over.

Q. 1522. A took a farm seventeen years ago. On the 3rd September, 1919, a notice to quit was served on him with an explanation that it was served only for the purpose of a re-adjustment of his rent. He continued to hold the farm at an increased rent until Michaelmas last, when he vacated the farm. A substantial claim for dilapidations has been made upon him under the terms of the original tenancy agreement. His valuer contends that that agreement has been abrogated by the notice to quit of 3rd September, 1919. No alteration of terms was discussed. Under these circumstances is the original agreement in force, or does the tenant hold as a customary tenant free from all obligations, except such as are imposed by custom or statute? In other words, is a new tenancy agreement necessary with each alteration of rent?

A. The first point is whether the notice to quit was rendered conditional, and therefore invalid, by the accompanying explanation, but if the latter was verbal it probably did not affect the notice. Even if the explanation was in writing it would not necessarily invalidate the notice, which was therefore good under the decision in *Freeman* v. *Evans*, 1922, 1 Ch. 36, with the result that a new tenancy was created in 1919. The defendant has since held over upon the terms of the original agreement, if a yearly tenancy. Even if the original agreement was a lease for a term of years, the tenant has since held over upon a yearly tenancy, and subject to such conditions of the original agreement as are not inconsistent with a yearly tenancy. It will therefore be necessary to consider, in reference to each item of dilapidations, whether the covenant of the lease under which it is claimed is inconsistent with a yearly tenancy, as in *Lowther* v. *Clifford*, 70 S.J. 544. See "Every-day Points in Practice," pp. 291-293. The last question is answered in the negative.

Option to Renew Lease—Validity if Vague.

Q. 1523. In the year 1922 a freeholder granted a lease of a building used as offices to a company "for the term of seven years from the 25th day of March, 1922, with the option to renew at the end of that period." The lessees went into liquidation, and the liquidator assigned the lease to another company, from whom the landlord accepted rent. The landlord has recently died, and his executors wish to sell the demised premises, but can only do so at a considerable reduction of what they consider to be the real value if the assignees of the lease are entitled and claim to have a new lease granted to them for another term of seven years. There is no mention of the option elsewhere in the lease, or of the terms on which a new lease is to be granted. Can the assignees of the lease insist upon a new lease for seven years being granted to them? And, if so, must it be a lease reserving the same rent and containing the same covenants and conditions as the existing lease? Or are the words relating to the option too vague to be binding on the executors?

A. The case nearest to the above is *Lewis* v. *Stephenson*, 67 L.J. Q.B. 296, in which premises were let for three years at a yearly rent of £80 "with the option of renewal." Mr. Justice Bruce held that this expression was sufficiently definite to enable him, at the instance of the tenant, to decree specific performance for a renewed agreement for the same period and on the same terms, except a further option to renew. Similarly in *Austin* v. *Newham*, 1906, 2 K.B. 167, there was an agreement for a tenancy "for a period of twelve months with the option of a lease after the aforesaid time at the rental of £30 per annum." The Divisional Court held that the tenant had a right to claim a lease for at least a further period of one year, and distinguished *Fitzmaurice* v. *Bayley*, 9 H.L.C. 78. The latter case is said to establish that an agreement for a lease not specifying a definite term cannot be enforced, but the decision was only to the effect that, if the lessee had not entered, such an agreement was not a sufficient memorandum to satisfy the Statute of Frauds. The first two questions above are therefore answered in the affirmative, except that the new lease will not contain a further option, as the court does not favour perpetual leases. The third question is answered in the negative.

Disclaimer of Agricultural Lease.

Q. 1524. A, until recently the tenant of a farm under a yearly tenancy agreement, has been adjudicated bankrupt and his trustee has disclaimed the tenancy, having first given the necessary notice to the landlord of his intention so to do. B, the landlord, did not give notice requiring the matter to be brought before the court. The agreement gave the tenant permission to lay down part of the farm to permanent pasture, which has been done. Within two months from the termination of the tenancy notice was given under the Agricultural Holdings Acts, on behalf of the trustee of the bankrupt tenant, claiming compensation for the permanent pasture. In addition, there are other claims upon the landlord for tenant right valuation, such as tillages, etc. The valuation in respect of these items has not yet been agreed upon. On the other hand, the landlord has a claim for damages for dilapidations, such as foul land, etc. The landlord now contends that as the trustee has disclaimed the tenancy he has lost his right to be paid the above compensation and the tenant right valuation which, in this case, is due from the landlord, the farm being still unlet. At the same time, however, the landlord intends to lodge a proof against the bankrupt's estate for damages for dilapidations and to be allowed to take credit for the hay, straw, etc., left upon the farm by the tenant on account of such claim. What is the position of the trustee and landlord, respectively, in a case of this kind? And has not the trustee the right to enter upon the farm and thresh and sell the corn, which, according to custom, he has the right to do? It cannot surely be held that the disclaimer excludes the trustee's right to the corn and hay, which are things severed from the land. Is it possible that the trustee, having disclaimed the lease, can yet substantiate a claim for any prior rights of the tenant that have matured?

A. The landlord's contention that the trustee has lost the right to compensation and tenant right valuation is at variance with the Bankruptcy Act, 1914, s. 54 (2), under which the disclaimer operates to determine the rights, interests and liabilities of the bankrupt and his property only as from the date of disclaimer. The answer to the last question is that it is possible for the trustee, after disclaimer, to substantiate a claim for prior rights that have matured. The landlord's proof for dilapidations should be rejected by the trustee, as it was decided in *Schofield* v. *Hincks*, 58 L.J. Q.B. 147, that a trustee cannot counter-claim until an award has been made in an arbitration under the Agricultural Holdings Act, and the amount of the landlord's claim therefore requires to be ascertained by the same means. The position of the parties is governed by different considerations in the case of the hay and straw on the one hand and the corn on the other. The

Agricultural Holdings Act, 1923, s. 31, provides that the tenant, after notice to terminate and unless otherwise agreed, shall not sell or remove any hay or straw without giving the landlord an opportunity of purchasing the same. The Sale of Farming Stock Act, 1816, s. 11, also states that no assignee of a bankrupt shall dispose of any hay or straw in any other way than the bankrupt ought to have disposed of the same, and it was decided in *Lybbe* v. *Hart*, 29 C.D. 8, that a trustee who had disclaimed was therefore not entitled to sell hay and straw which was subject to a covenant for consumption on the farm. That case was decided under the Bankruptcy Act, 1869, s. 119, which was similar to the present Bankruptcy Act, 1914, s. 150, and even in the absence of a covenant there is probably a custom of the county for the hay and straw to be consumed on the holding. The result is that the trustee would have a difficulty in proving his claim to the hay and straw, but the point is not important as the landlord intends to give credit for the hay and straw on account of the claim for dilapidations. The corn, however, is property of the bankrupt which is divisible among his creditors, and the disclaimer does not exclude the trustee's right to enter and thresh and sell the corn.

Family Business—Effect of Assisting and Sharing Profits.

Q. 1525. A client of mine carries on business here, and three of his brothers have advanced him sums of money to enable him to commence this business, and they now desire to enter into an agreement whereby their loans shall bear interest at the rate of 6¼ per cent. and further that they shall assist in the business to the best of their ability without detriment to their own daily occupation, and in consideration of such assistance they are to be entitled to a sum equal to 25 per cent. of the net profits of the business. The effect being, of course, that the four brothers will share the profits of the business equally between them. In my written instructions my clients refer to themselves as "employer" and "employees" but if I carry out the instructions as given, I am afraid they will become partners in spite of their styling themselves "employer" and "employees." My difficulty is that they do not wish to be partners, but still wish to share the profits as stated above, and enter into a sort of profit-sharing arrangement between themselves, as has been introduced in the case of limited companies between employers and employees. Can you suggest any method of carrying out their wishes. I have been unable to find a precedent.

A. The proposed arrangement is a partnership within the definition in the Partnership Act, 1890, s. 1, and the assistance in the business prevents the brothers from claiming exemption from partnership liabilities under the above Act, s. 2. Even if registered under the Limited Partnerships Act, 1907, the three brothers could only "advise" under s. 6 (1) and if they take part in the management they will lose the benefit of limited liability under the same sub-section. There is therefore no method of carrying out their wishes except by forming a private limited company.

Agricultural Holdings Act, 1923—Disturbance—Right of Convicted Tenant to Compensation.

Q. 1526. A.B., the tenant of a small holding, was committed to the Assizes on a charge of cattle stealing and bound over. His landlord is urged by neighbouring smallholders to terminate the tenancy, they having suffered from minor thefts in the past. If notice is served on him he will apparently be entitled to compensation under s. 12 of the Agricultural Holdings Act, 1923. It certainly seems an anomaly that, while a bankrupt is unable to claim, a cattle thief can succeed. Is there any saving clause outside the Act which would defeat a claim for compensation for disturbance?

A. There is no saving clause outside the Act which would defeat a claim in the above circumstances, but it is not certain that an anomaly exists under the Act as suggested. Section 12 (*c*) disentitles the tenant to compensation if he has materially prejudiced the interests of the landlord by committing a breach which was not capable of being remedied of any term or condition of the tenancy consistent with good husbandry. This is an obscure sub-section, as most breaches can be remedied with time and money, but occasion for giving notice might arise in the above circumstances, e.g., if all the other small holders threaten to give notice to quit unless the offender's tenancy is determined. Moreover s. 12 (2) enables the landlord to apply to the agricultural committee for a certificate that the tenant is not cultivating the holding according to the rules of good husbandry, a fundamental axiom of which is that a farmer shall not prey on his neighbours. The Committee would not require the degree of proof necessary to sustain charges of larceny or malicious damage before the magistrates, and the proceedings would be a privileged occasion within the law of slander. It might be possible to remark to some committees that Christianity is part of the law of England, and that the offender in the above case has broken the tenth commandment.

Loss of Laundry Basket—Liability.

Q. 1527. A sends by goods train to a laundry a basket containing soiled linen and silk goods to be washed. The goods are packed in the laundry's own washing basket which has two straps at each end but no padlock. A signs a consignment note for the carriage of the goods and pays the charges. In the consignment note there is a clause which reads as follows: "In certain instances alternative company's risks and owner's risks rates are available. In such cases state whether the merchandise is to be carried at the company's risk rate or owner's risk rate." This question is not answered. The railway company deliver the goods at the laundry and the receiver signs the railway company's book, but does not sign as "unexamined." On checking the laundry with the laundry list in the basket several silk and other articles are found to be missing and the laundry immediately reports this by letter to A, who in turn notifies the railway company. The company invite A to send in particulars of claim, and after some correspondence A receives a letter from the railway company as follows: "I am to inform you that the matter has been thoroughly investigated and that the consignment was delivered in external good condition and no complaint was made by the consignee. There is no evidence whatever that the hamper was interfered with during transit. In the circumstances the company declines liability." Has A any claim against the railway company or against the laundry who took in the goods and signed for them without adding the word "unexamined." Could the laundry insist upon the company's carrier waiting and seeing the laundry checked over in future in order to fix responsibility should further articles be found missing?

A. If A can establish that from the time the basket left his house until the time it was taken in charge by the railway company it was not and could not have been tampered with, it would seem the necessary inference that it was either (1) tampered with *en route*, or (2) tampered with in the laundry. A apparently does not suggest the latter alternative. If that is so, an action would appear to be against the railway company upon whom would rest the onus of showing that there had been no tampering by their servants. We do not think that the laundry company could insist upon the carrier waiting and seeing the contents of the basket checked. The laundry company should however, sign the company's book as "unexamined."

The attention of the Legal Profession is called to the fact that THE PHŒNIX ASSURANCE COMPANY LTD., Phœnix House, King William Street, London, E.C.4 (transacting ALL CLASSES OF INSURANCE BUSINESS), invites proposals for Fidelity Guarantee and Court Bonds, Loans on Reversions and Life Interests. Branch Offices at Byron House, 7, St. James's Street, S.W.1; 187, Fleet Street, E.C.4; 20-22, Lincoln's Inn Fields, W.C.2; and throughout the country.

Notes of Cases.

Court of Appeal.

Scammell and Nephew Limited *v.* Attlee and Others.

Scrutton, Greer and Sankey, L.JJ. 21st November, 1928.

PUBLIC AUTHORITY—PROTECTION—ELECTRICITY AUTHORITY—FAILURE TO SUPPLY CURRENT—BREACH OF CONTRACT—BREACH OF STATUTORY DUTY—ALLEGED CONSPIRACY—ACTS DONE *bonâ fide* IN INTENDED EXECUTION OF STATUTORY DUTY—PUBLIC AUTHORITIES PROTECTION ACT, 1893, 56 & 57 Vict., c. 61, s. 1.

Appeal from verdict and judgment of Avory, J., and a special jury. The appellants were certain members of the electricity committee of the Stepney Borough Council. The respondents were a company carrying on business as engineers in the Borough of Stepney. As undertakers pursuant to the provisions of the Electric Lighting Orders Confirmation (No. 6) Act, 1892, the Stepney Borough Council were under obligation to give and continue to give to the respondents a supply of electric energy at their premises at Stepney. Under statutory powers in that behalf the borough council delegated to the electricity committee the management of their electricity undertaking, and did not require that their proceedings should be confirmed. The respondents, by their statement of claim, alleged that they had suffered damage by reason of a conspiracy between the appellants *inter se*, and between them and the London District Committee of the Electrical Trades Union, to cause and induce orders to be given to the council, their servants and agents unlawfully to discontinue the supply of electricity afforded to the respondents by the council. They further alleged that in pursuance of such conspiracy the appellants wrongfully and maliciously caused and induced the council to discontinue the supply from 4th May to 12th May, 1926, which the respondents had received under the said order and in accordance with a contract dated 13th February, 1924, made between the respondents and the council. On 3rd May, 1926, the Council of the Trades Union Congress declared a general strike to begin at midnight. The technical employees of the Stepney Borough Council were members of a union known as the E.P.E.A. The great bulk of their employees in the electrical department were members of a union known as the E.T.U., who were governed by a district committee, and were affiliated to the Trades Union Congress. It became obvious to those whose duty it was to manage the electrical undertaking on behalf of the council that there was grave danger of their men ceasing work at midnight, with the result that the borough of Stepney and the adjoining borough of Bethnal Green, which their undertaking also served, would be plunged into darkness. A meeting of the electricity committee was summoned by telegram to deal with the emergency. All the appellants were persons politically in sympathy with the Labour Party. The appellant, Major Attlee, who was chairman of the committee, in consultation with the engineer, arranged for bedding and food to be available to the workers in case of need. On the night of 3rd May, Major Attlee tried to persuade the men not to strike but to continue the supply of electricity for all purposes. On their refusing he tried to get the Trades Union Congress to order the district committee to tell the men to continue to work for all purposes. As he was unable so to secure a continuance of work for all purposes, and thought that the peace and good order of the borough would be gravely endangered if naval ratings and volunteer labour were introduced, he proposed the resolutions that were proposed and agreed to as the best that could be done in the circumstances to secure without disorder the continued lighting of the council's area of supply. Major Attlee and his committee wanted the supply to continue for power as well as light, and it was only when they could not get it without calling in naval ratings and volunteers that they consented to do without it and agreed with the E.T.U. that it was not to be supplied. On 4th and 5th May, Major Attlee, on behalf of the committee, endeavoured, notwithstanding the resolution of the committee not to supply power, to induce the men to agree to supply power as well as light. The jury found, *inter alia*, that the defendants in doing what they did were not acting in good faith and in the honest belief that they were carrying out their statutory duty; that they were actuated by an indirect motive to injure the respondents, or to further the interests of those who took part in the general strike. Judgment was entered for plaintiffs accordingly. The defendants appealed.

The Court allowed the appeal. The jury's findings were so devoid of foundation as to be perverse. There was no evidence against the appellants of any conspiracy, and the action failed. Further, the appellants were protected by s. 1 of the Public Authorities Act, 1893, as the appellants were *bonâ fide* acting in intended execution of their public duty as members of the council and representatives of the people of the borough, and the action against them was not brought within six months next after the happening of the acts or defaults complained of. Therefore the action could not be maintained. Appeal allowed.

COUNSEL: *Sir Malcolm Macnaghten*, K.C., and *Hull*; *Sir Walter Greaves-Lord*, K.C., and *Lipsett*; *Scholefield*, K.C., and *Erskine Simes*.

SOLICITORS: *Druces & Attlee*; *Sweepstone, Stone, Barber and Ellis*, and *Owen White*; *William Lewis McCarty*, Town Clerk of Stepney.

[Reported by T. W. MORGAN, Esq., Barrister-at-Law.]

Warwick *v.* Warwick.

Lord Hanworth, M.R. and Lawrence, L.J.
28th November, 1928.

DIVORCE—PRACTICE—PERMANENT MAINTENANCE—APPLICATION FOR CROSS-EXAMINATION OF RESPONDENT—RELATION BETWEEN PERMANENT MAINTENANCE AND DECREE ABSOLUTE—UNDERTAKING BY PETITIONER TO MAKE DECREE ABSOLUTE ON TERMINATION OF INQUIRY ON PETITION FOR MAINTENANCE—JUDICATURE (CONSOLIDATION) ACT, 1925, 15 & 16 GEO. 5, c. 49, s. 190, sub-s. (1). Principle in *Fox* v. *Fox*, 1925, P. (C.A.) 157, applied.

This was an appeal from an order of Hill, J., dismissing an appeal from an order of the registrar postponing, until after decree nisi had been made absolute, the cross-examination of the respondent upon his answer to proceedings for permanent maintenance. In 1918 the petitioner obtained a decree of judicial separation on the ground of cruelty. Proceedings for permanent alimony followed, and the respondent was ordered to pay alimony at the rate of £62 (less tax) per month to the wife for her maintenance and £13 (free of tax) per month for the maintenance and education of the child of the marriage. On the 12th March, 1928, the petitioner obtained a decree nisi of dissolution of her marriage, and on the 30th March filed her petition for permanent maintenance. In April the respondent swore his answer and in June a further answer, and in addition on 2nd July petitioned for a reduction of alimony payable under the 1918 order. The petitioner swore an answer in the reduction proceedings on the 19th July, and the respondent a reply on the 5th October. On 23rd October the registrar gave his decision appealed from, to the effect that he would order the respondent to attend for cross-examination, but such cross-examination must be postponed until after the making of the decree absolute. On appeal to Hill, J., the registrar's decision was upheld, notwithstanding the petitioner's undertaking to make the decree absolute, immediately upon the determination of the inquiry in the maintenance proceedings.

Counsel for the appellant wife submitted that there was no intended delay on the part of the wife to make the decree absolute. Her object was to prevent the respondent from divesting himself of his property by making a settlement

or otherwise, before an order to secure permanent maintenance could be made. After decree absolute the order for permanent alimony would go, and as any interim order was usually made upon the admitted figures only, the petitioner, pending the completion of the inquiry might find herself without an allowance from the respondent. Here the respondent, who appeared in person, interposed, and stated that he would continue the payment of £62 per month, and that he would undertake not to divest himself of any of his capital during the next six months, nor to marry or enter into a contract in contemplation of marriage.

Counsel for the appellant declined to accept the respondent's undertaking, and proceeded to elaborate his argument. The respondent was not called upon.

Lord HANWORTH, M.R., in the course of his judgment said that the registrar's decision was right, and that he and the learned judge had been loyally applying the principle laid down by that court in *Fox* v. *Fox*, 1925, P. (C.A.) 1925, in refusing to allow the wife to use the measure of withholding the decree absolute as any kind of lever against the husband. This was a proceeding on behalf of the wife *quia timet*, but there were not materials before them disclosing any great risk of the respondent's putting it out of his power ultimately to give security. In interlocutory proceedings the rights of both parties had to be guarded by the court. It was true that it was not possible for the court to intervene until there had been an order, quantifying the sum to be secured, and in every case this situation could arise in which a spouse might divest himself of his property; but the court took note of the fact that the respondent had said that he had no intention of divesting himself ot his property or of contracting marriage, and that would come before the notice of the registrar accordingly. The appeal would be dismissed with costs.

LAWRENCE, L.J., delivered a judgment in agreement with that of the Master of the Rolls.

COUNSEL: *Bayford*, K.C., and *H. B. Durley Grazebrook*, for the appellant wife.

SOLICITORS: *Parker, Garrett & Co.*

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Weddle Beck and Co. *v.* Hackett.

Swift, J. 14th November, 1928.

STOCKBROKER—HALF COMMISSION MAN DEALING IN DIFFERENCES—INNOCENT THIRD PARTY—WAGERING CONTRACTS—GAMING ACT, 1845, 8 & 9 Vict., c. 109—GAMING ACT, 1892, 55 Vict., c. 9.

The plaintiffs in this action were a firm of stockbrokers. The defendant requested one Bonnard, who was a half commission man with the plaintiff company, to buy and sell shares on his behalf through the plaintiffs, but not to exceed a loss of £50. After a number of transactions the defendant became indebted to the plaintiff company to the extent of £59 13s. 1d. Bonnard lent the defendant the money to meet this sum and persuaded him to keep the account open, saying that if he left everything to him, Bonnard, he would eventually show a profit on his share transactions. The defendant agreed to do this, but the plaintiffs later closed his account, which at that time showed a balance due to them from the defendant of £317 19s. 6d., the amount now claimed.

SWIFT, J., in the course of a considered judgment, said that he was quite satisfied that the arrangement between the defendant and Bonnard was a pure gambling transaction recognised by both as such. In the absence of evidence to the contrary he assumed that the plaintiffs believed that the transactions were genuine investments on the defendant's behalf. Among other contentions the defendant submitted that the transactions were void and unenforceable under the Gaming Acts, and that under those Acts the plaintiffs were not entitled to recover any moneys which they had paid away ostensibly on his behalf. Dealing with this contention, his lordship said that the defendant and Bonnard were only speculating in differences, and what he had to determine was whether, in such an arrangement, there was anything illegal so as to prevent the plaintiffs from recovering money expended on behalf of the defendant in the furtherance of such a scheme. Were the contracts formed between the jobbers and the defendant, through the agency of the plaintiffs, wagering contracts? After reviewing the authorities, he was of opinion that they were not in any sense wagers. The third parties considered the transactions genuine. Judgment for the plaintiffs for the amount claimed, with costs.

COUNSEL: *H. G. Robertson*, for the plaintiffs; *H. Salter Nichols*, for the defendant.

SOLICITORS: *Smallman & Son; Corsellis & Berney.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Council of the County Palatine of Lancaster *v.* Crowe.

Lord Hewart, C.J., Avory and Acton, JJ. 23rd November, 1928.

LOCAL GOVERNMENT—LOCAL EDUCATION AUTHORITY—NON-PROVIDED ELEMENTARY SCHOOLS—PLAYGROUNDS FLAGGED AND PAVED—PAYMENT DISALLOWED—AUDIT (LOCAL AUTHORITIES) ACT, 1927, 17 & 18. Geo. 5, c. 31, s. 2—EDUCATION ACT, 1921, 11 & 12 Geo. 5, c. 51, s. 17 (1), s. 29 (2) (*d*), s. 170 (6).

Case stated by the Minister of Health under s. 2 of the Audit (Local Authorities) Act, 1927.

The appellants, the Council of the County Palatine of Lancaster, acting as the local education authority, paid the sums of £1 12s. 8d. and £5 8s. 4d., being the balance of accounts in respect of the cost of concrete paving for the playgrounds of two non-provided public elementary schools. The respondent, John W. Crowe, as district auditor, disallowed those payments on the 21st February, 1928, on the ground that the local education authority had no statutory right to spend the funds in their hands on alterations or improvements to a schoolhouse not belonging to them, and that it was the managers' duty to make and pay for such alterations and improvements, as required by s. 29 (2) (*d*) of the Education Act, 1921. The appellants appealed to the Minister of Health on the 29th February, 1928, against the disallowance, and he now stated a case for the opinion of the court whether the appellants, as local education authority, had power to spend the above sums as they did.

Lord HEWART, C.J., read s. 29 (2) (*d*) of the Education Act, 1921: "The managers of the school . . . shall, out of funds provided by them, keep the schoolhouse in good repair and make such alterations and improvements in the buildings as may be reasonably required by the local education authority . . ." and also the definition section, by which "schoolhouse" was to include the playground, etc. The question became whether the concrete paving or flagging of a playground, which was previously gravelled, was an alteration or improvement in the building. "Buildings," however, were not necessarily synonymous with "schoolhouse," mentioned in the section, and although paving might be said to be an improvement "to" a building, could it be said to be an improvement "in" a building? He had come to the conclusion that the local education authority had power to pay for those playgrounds, and he allowed the appeal.

AVORY and ACTON, JJ., gave judgment to the same effect.

COUNSEL: *Wilfrid Greene*, K.C., and *Etherton*, for the appellants; *Montgomery*, K.C., and *H. P. Glover*, for the respondent.

SOLICITORS: *Greenwell & Co.*, for *Sir George Etherton*, Preston; *Sharpe, Pritchard & Co.*, for *Cotman & Son*, Preston.

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Legal Parables.

XIX.

The Barrister who Believed in Experts.

When the prisoner was arrested for embezzlement, he said, "Yes, I had the money," and added the usual statement about slow horses and fast women. At the police-court, the prosecution proved three clear cases and a considerable general deficiency, and the prisoner was committed for trial.

Counsel for the prosecution said it was a sitter. Counsel for the defence said it was a something else. "But," he went on, "how about a medical defence? Can't we call experts to show that the fellow had rickets, or an inferiority complex, or traumatic insomnia, or amnesia or something?"

"No good!" said the solicitor. "He's as sound as a bell. Hasn't even given way to drink to any extent."

"Then," replied the barrister, "our only hope is a chartered accountant—and quite a good chance."

So they called in Mr. Adam, of Adam and Cookham, and told him all about it. At first he asked what on earth he could do, but when counsel explained matters a little, he smiled darkly, and said he quite tumbled.

Then they called for many books, ancient and modern, and made extracts and drew up statements; and at the trial they kept asking for more. And when counsel for the prosecution protested against irrelevance and pointed to the defendant's own admission, the chairman said, "Well, well! It seems a little remote at present, but still, one doesn't like to hamper the defence." And counsel for the defence added that, so far as the admission went, there were several points. Firstly, how was it obtained; secondly, was it said at all; and thirdly, it could easily be explained—and would be, if only his friend would have a little patience and display less nervousness about the obvious weakness of his case.

Moreover, counsel for the defence kept on talking about the case as "purely a matter of account," and the chartered accountant also said it was entirely a matter of account; and when the chairman asked what, exactly, was the significance of these extracts from the prosecutor's books, then the chartered accountant said it was a little difficult to explain unless people were well accustomed to figures, and, indeed, he became so very chartered that the chairman said hastily: "For myself, I understand perfectly, but there's the jury to remember. They may not perhaps be quite . . ."

As the jury had become quite fogged and had lost sight of the charge and all the early evidence, and as the chairman summed up very vaguely, the verdict was "Not guilty," with a rider to the effect that it was clearly nothing but a question of account.

Moral: *Experto crede.*

In Parliament.

Questions to Ministers.

ROYAL COMMISSION ON ROAD TRAFFIC.

Viscount Cecil of Chelwood asked "whether the Government have yet been able to ascertain whether the Royal Commission on Road Traffic is disposed to present an Interim Report on questions concerning the safety of those using the roads?"

The First Commissioner of Works (The Marquess of Londonderry) said: "I understand that my right hon. and gallant friend the Minister of Transport is bringing the proposals contained in the noble Viscount's Bill and the Report of the discussion in this House to the attention of the Royal Commission on Transport which meets to-morrow. He is also in communication with the Chairman as to the advisability of an Interim Report." *December* 18.

FIVE-POUND NOTES.

Mr. Day asked the Financial Secretary to the Treasury whether he is aware that certain Government Departments demand that the public, in tendering a five-pound note in payment for value received, shall sign their names and addresses on the back; can he state whether these instructions are issued by his Department; and will he state what is the highest denomination of Bank of England notes the Government Departments consider as legal tender?

Mr. Samuel: Bank of England notes of any amount are legal tender in England and Wales, and the £1 and 10s. notes are legal tender also in Scotland and Northern Ireland. It is a common practice to ask persons who tender notes for £5 and upwards to write their names on the back. As the notes are legal tender there is no obligation on the person tendering the note to comply, though equally there is no obligation on the receiver to give change. There are no special instructions to Government Departments on the subject, but if the hon. Member will furnish me with particulars of any case in which inconvenience has been caused, I will look into it.

Mr. Day: Will the hon. Gentleman confer with his colleague the Postmaster-General, so that Post Office assistants are not instructed to ask the public to sign their names and addresses on the back of £5 notes?

Mr. Samuel: Yes, Sir. But in my own personal experience the Post Office does not insist on this signing.

Mr. Day: Will the hon. Gentleman ask the Postmaster-General to instruct his assistants that they are not even to ask people who tender £5 notes to sign their names on them? In my experience people are asked to sign.

Mr. Samuel: I will convey the suggestion to the Postmaster-General, but I have reason to know that a former Postmaster-General has already given that instruction.

CRIMINAL LAW AMENDMENT ACT.

Mr. Hurd asked the Home Secretary whether he has received a memorial signed by councillors, school managers, and other representative residents of Wanborough and district, asking that the provisions of the Criminal Law Amendment Act which comes into force on 1st January shall be brought to the special notice of magistrates and the police; and whether he will comply with this request?

Sir V. Henderson: My right hon. Friend has received the memorial referred to. On 31st August last the special attention of every chief officer of police was drawn to this Act, and this Act, like other Acts, is sent to all Courts. Attention will no doubt be drawn further to the Statute by this question and answer.

BOOK OF COMMON PRAYER.

Colonel Applin asked the Home Secretary whether permission was sought by the privileged press before printing and publishing the Book of Common Prayer of 1662 with the additions and deviations proposed in 1928; and, if not, what steps he proposes to take in view of the copyright of the Crown in the Book of Common Prayer?

Sir V. Henderson: No request has been made by the privileged press to print and publish the Book referred to by my hon. and gallant Friend. So far as the second part of the question is concerned, I fully appreciate that many difficult questions may be raised by the publication of this Book. My right hon. Friend is not, however, aware of any ground on which it could be suggested that the copyright of the Crown in respect of the Book of Common Prayer of 1662 has been infringed by the printing and publication by the privileged press of that book in the form indicated in the question.

Lieut.-Commander Kenworthy: Can the hon. and gallant Member say whether his right hon. Friend has, in fact, any jurisdiction over the publication of this book, provided that it does not break the law against obscenity—that is the only jurisdiction he has—and provided also that it is made perfectly clear that the book does not supersede the Book of Common Prayer of 1662?

Societies.

Solicitors' Benevolent Association.

The monthly meeting of the directors of this Association was held on the 12th ult. at The Law Society's Hall, Chancery-lane. Mr. Walter F. Cunliffe in the chair. The other directors present being Messrs. F. E. F. Barham, E. E. Bird, E. R. Cook, T. S. Curtis, E. F. Dent, A. G. Gibson, C. J. Humbert, C. G. May, H. A. H. Newington, Major C. A. Markham (Northampton), H. W. Michelmore (Exeter), Sir Reginald W. Poole, P. J. Skelton (Manchester), F. L. Steward (Wolverhampton), M. A. Tweedie, and A. B. Urmston (Maidstone); £1,248 was distributed in grants of relief; fifteen new members were admitted; and other general business transacted.

The Hardwicke Society.

A meeting was held in the Middle Temple Common Room, on Friday, the 14th ult., the President, Mr. L. A. Abraham, being in the chair.

Mr. Maurice Healy, Gray's Inn, moved: "That capital punishment should be abolished."

Mr. G. G. Raphael, Inner Temple, Treasurer, opposed the motion.

There also spoke: Mr. J. W. J. Cremlyn, Mr. G. Corderoy, Mr. Melford Stevenson, Mr. J. M. Symmons, Mr. Ifor Lloyd, Vice-President, Miss Bright Ashford, Mr. R. Ives, Mr. E. J. Bullock, Mr. C. N. Shawcross and Mr. G. Kennedy Skipton.

The mover having replied, a division was taken, and the motion was carried by two votes.

The Law Society's School of Law.

The Spring Term opened on Wednesday last. The subjects to be dealt with during the term will be, for intermediate students, (i) Public Law (Mr. Segar), (ii) Personal Property and Status (The Principal and Mr. Wade), (iii) Criminal Law and Procedure, and Civil Procedure (Mr. Landon and Mr. Segar), (iv) Outline of Accounts and Book-keeping (Mr. Dicksee). There will be a special course on Elementary Equity (Mr. Formoy) for those intermediate students who are advised by the Principal to take the course. The subjects for final students will be (i) Conveyancing and Probate (Mr. Danckwerts), (ii) Private International Law, Divorce, and Criminal Law (Mr. Gahan), (iii) Practice in the K.B.D. (Mr. Chorley). There will also be courses on Contract (Mr. Hughes), Conveyancing (Mr. Danckwerts), and Legal History (Mr. Salt) for honours and final LL.B. students. The courses on Constitutional Law (Mr. Wade and Mr. Hanbury) and Roman Law (Mr. Landon and Mr. Browne) for Intermediate Degree students, will be continued.

The course on Personal Property and Status may be taken in the morning (10.15 to 12.15 p.m.) or in the afternoon (4 to 6 p.m.) and the course on Criminal Law and Procedure and Civil Procedure may be taken in the morning (10 to 12 noon) or in the afternoon (4 to 6 p.m.).

Students can obtain copies of the detailed time-table, and of the regulations governing the three studentships of £40 a year each, offered by the Council for award in July next, on application to the Principal's Secretary.

STUDENTS' ROOMS.

The annual meeting of members of the Students' Rooms will be held in the Students' Common Room, on Tuesday next, 8th January, at 2 p.m.

Members of the Rooms should endeavour to be present.

Legal Notes and News.

Honours and Appointments.

Mr. W. T. Beer, Assistant Solicitor in the office of Mr. Hugh Royle, Town Clerk and Solicitor to the Hammersmith Borough Council, has been appointed Assistant Solicitor in the office of Mr. J. Basil Ogden, M.A., LL.B., Town Clerk of Bath. Mr. Beer was admitted in 1924.

Mr. Mass Thajoon Akbar, K.C. (Ceylon), has been appointed a Puisne Judge of Ceylon. Mr. Akbar was called by Gray's Inn in 1904.

Mr. Laurence J. Carlyon, Solicitor, Truro, has been appointed Town Clerk of that city in succession to the late Mr. Frederick Parkin. Mr. Carlyon, who was admitted in 1921, also holds the appointment of Deputy Coroner.

Mr. D. S. A. McMurtrie, Solicitor, of the Treasury Solicitor's Department, has been appointed Registrar of County Courts at Cambridge, Newmarket, Luton, Hitchin and Royston in succession to Mr. W. Onslow Times, who has resigned.

The Lord Chancellor has appointed Mr. Eustace Hills, K.C., to be the Judge of the County Courts on Circuit No. 3 (Cumberland, etc.) in the place of His Honour Judge Gawan Taylor, deceased. Mr. Hills was called to the Bar by the Inner Temple in 1894 and took silk in 1919.

Mr. Harry Dunks, Solicitor, who was in May last appointed Acting Town Clerk of Manchester on the death of the late Town Clerk (Mr. T. M. Heath), is retiring after forty years' service with the corporation. Mr. Dunks was admitted in 1908 and was appointed Deputy Town Clerk in 1924.

Mr. Edward Cecil Durant, Solicitor (Lovegrove & Durant), who has for the past twenty-eight years been Town Clerk of Windsor, is retiring. Mr. Durant was admitted in 1888 and also holds the appointments of Clerk to the Justices, Clerk to the Education Committee and Superintendent Registrar.

Mr. Arthur E. T. Hinchcliffe, LL.B., senior partner in the firm of Armitage, Sykes & Hinchcliffe, solicitors, Huddersfield, has been appointed Chairman of the Court of Referees for the Huddersfield district under the Unemployment Insurance Act, rendered vacant by the death of the late Sir William Ramsden, solicitor.

Mr. W. R. Hughes, Solicitor, Carnarvon, has been appointed Registrar of the County Courts of Carnarvon, Bangor and Anglesey. Mr. Hughes was admitted in 1914.

Professional Announcements.

(2s. per line.)

Messrs, Frere, Cholmeley & Co. have opened branch offices at Suffolk-house, Laurence Pountney-hill, E.C.4.

Messrs. Young, Jones & Co., of 2, Suffolk-lane, Cannon-street, London, E.C.4, have as from the 1st January, 1929, taken Mr. Humphrey Charles Vaughan Jones into partnership. The name of the firm will remain unchanged.

Messrs. Coward, Chance & Co., solicitors, 30, Mincing-lane, E.C.3, announce that Sir Cecil Coward (who has been a partner for over fifty years) and Mr. Robert Coward have retired from the firm as from the 31st December, 1928. The practice will be continued by the remaining partners and Mr. C. L. Fabel, Mr. G. F. Pitt-Lewis and Mr. P. R. Johnston, who have occupied important positions with them for several years and have now joined the firm.

Wills and Bequests.

Mr. Ernest Henry Godson, solicitor, of Heckington, Lincs, who died on 22nd June last, aged sixty-two, left unsettled property of the gross value of £100,893. He left £200 to his managing clerk, Frederic William Gill; £100 each to his former managing clerk, Joseph Thompson, and his cashier, George Everington, in each case "as some slight recognition of their great services to me."

Mr. James Berry Walford, solicitor, of Cherry-garden-avenue, Folkestone, retired solicitor, formerly associated with the firm of Gabb & Walford (now Gabb, Price & Fisher), clerk to the magistrates for thirty-nine years, and district coroner for about twenty years, left estate of the gross value of £48,621.

REVISED MOTOR INSURANCE.

The likelihood of a revision in the whole system of motor insurance was, says *The Daily Telegraph*, predicted by Mr. F. Akeroyd, accident manager of the British Oak Insurance Co., in a paper read before the Insurance Institute of London recently.

Mr. Akeroyd suggested that the rate for accidental damage should be entirely separate from the third-party, fire and theft rate, and that for each make of car there be an accidental damage premium based upon its construction and design (chassis and body), life (wear, tear and depreciation) and cost of spares.

"During the past few years, speaking generally," he said, "the profit from motor insurance has been somewhat thin and in many instances non-existent. Year after year references have been made at the companies' annual meetings to the disappointing results in this section of the business, and that the rates required revision in an upward direction. Whatever may be the causes for this (and they are many), motor insurance is passing through a period of transition, and adjustments may require to be made to meet the altered conditions now prevailing from those of only ten years ago." He advanced the opinion that a more accurate and efficient means of premium assessment lay in the direction of area rating.

"From the third-party aspect the motorist in a town is more likely to injure a person occupying a high financial position in life than in the country, and we know the measure of damages claimed and awarded is largely governed by the injured person's station in life. Yet, speaking generally, no difference in premium is made between the owner of a car resident in London, Manchester or Birmingham, and one in the heart of an agricultural county."

Mr. Akeroyd said that the psychology of some insured persons was remarkable. "Reasonably fair and absolutely honest in their dealings in other walks of life, they look upon their car as a 'pet,' and when a question of the repair of a wing or lamp arises and the liability of the insurance company is involved their otherwise high and unimpeachable standard of honesty becomes lowered and impeachable, and their view only too often finds ready support from the repairer."

TEMPERANCE PERMANENT BUILDING SOCIETY.

Dividend and interest warrants for the six months ended the 31st December, 1928, were posted on that date to members and depositors of the Temperance Permanent Building Society; the amount, exceeding £64,000, was paid free of income tax.

We are informed that the society has had a very successful year, the amount advanced on mortgage exceeding £1,000,000.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

* Date.	Emergency Rota.	Appeal Court No. 1.	Mr. Justice Eve. *Non-Witness.*	Mr. Justice Romer. *Witness. Part I.*
M'nd'y Jan. 7	Mr. Ritchie	Mr. Hicks Beach	Mr. More	Mr. Hicks Beach
Tuesday .. 8	Bloxam	Blaker	Hicks Beach	Bloxam
Wednesday. 9	Jolly	More	Bloxam	More
Thursday . 10	Hicks Beach	Fitchie	More	Hicks Beach
Friday 11	Blaker	Bloxam	Hicks Beach	Bloxam
Saturday .. 12	More	Jolly	Bloxam	More

	Mr. Justice Maugham. *Witness. Part II.*	Mr. Justice Astbury *Non-Witness.*	Mr. Justice Tomlin. *Witness. Part I.*	Mr. Justice Clauson. *Witness. Part II*
M'nd'y Jan. 7	Mr. Bloxam	Mr. Jolly	Mr. Ritchie	Mr. Blaker
Tuesday .. 8	More	Ritchie	Blaker	Jolly
Wednesday. 9	Hicks Beach	Blaker	Jolly	Ritchie
Thursday . 10	Bloxam	Jolly	Ritchie	Blaker
Friday 11	*More	Ritchie	*Blaker	Jolly
Saturday... 12	Hicks Beach	Blaker	Jolly	Ritchie

* The Registrar will be in Chambers on these days, and also on the days when the Courts are not sitting.

HILARY SITTINGS, 1929.

COURT OF APPEAL.

IN APPEAL COURT NO. I.

Friday, 11th January.—Exparte Applications, Original Motions, Interlocutory Appeals from the Chancery and Probate and Divorce Divisions, and if necessary, Workmen's Compensation Appeals.

Monday, 14th January.—Workmen's Compensation Appeals will be continued to the end of the printed list after which Chancery Final Appeals will be heard.

IN APPEAL COURT NO. II.

Friday, 11th January.—Exparte Applications, Original Motions, Interlocutory Appeals, and, if necessary, Final Appeals from the King's Bench Division.

Monday, 14th January and until further notice.—Final Appeals from the King's Bench Division.

HIGH COURT OF JUSTICE.

CHANCERY DIVISION.

GROUP I.

In Causes and Matters assigned to Mr. Justice EVE, Mr. Justice ROMER and Mr. Justice MAUGHAM.

Mr. Justice EVE.

THE NON-WITNESS LIST.

Mondays .. Chamber Summonses.
Tuesdays .. Short Causes, Pets, Fur. Cons. and Adjourned Summonses.
Wednesdays Adjourned Summonses.
Thursdays .. Adjourned Summonses.

Lancashire Business will be taken on Thursdays, the 17th and 31st January, 14th and 28th February and 14th March.

Fridays .. Mots. and Adjourned Summonses.

Mr. Justice ROMER.

THE WITNESS LIST.—PART I.

Actions, the trial of which cannot reasonably be expected to exceed 10 hours.

Mondays .. Companies (Winding up) Business.

Tuesdays, Wednesdays, Thursdays, Fridays } The Witness List. Part I.

Mr. Justice MAUGHAM.

THE WITNESS LIST.—PART II.

Mr. Justice MAUGHAM will sit daily for the disposal of the List of Longer Witness Actions.

GROUP II.

In Causes and Matters assigned to Mr. Justice ASTBURY, Mr. Justice TOMLIN and Mr. Justice CLAUSON.

Mr. Justice ASTBURY.

THE NON-WITNESS LIST.

Mondays .. Chamber Summonses.
Tuesdays .. Mots, Short Causes, Pets. Procedure Summonses and Adjourned Summonses.
Wednesdays Fur, Cons and Adjourned Summonses.
Thursdays .. Adjourned Summonses.
Fridays .. Mots. and Adjourned Summonses.

Mr. Justice TOMLIN.

THE WITNESS LIST. PART I.

Actions, the trial of which cannot reasonably be expected to exceed 10 hours.

Except when otherwise announced in the Daily Cause List.

Mondays .. Sitting as Chairman of The Royal Commission on Awards to Inventors

Tuesdays, Wednesdays, Thursdays, Fridays } The Witness List. Part I

Bankruptcy Judgment Summonses will be taken on Tuesdays the 22nd January, 12th February and 5th March.

Bankruptcy Motions will be taken on Tuesdays, the 29th January, 19th February and 12th March.

A Divisional Court in Bankruptcy will sit on Wednesdays the 16th January, 13th February and 13th March.

Mr. Justice CLAUSON.

THE WITNESS LIST. PART II.

Mondays, Tuesdays, Wednesday, Thursdays, Fridays } The Witness List. Part II.

VALUATIONS FOR INSURANCE.—It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is generally very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS (LIMITED)**, 26, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert valuers, and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture, works of art, bric-a-brac a speciality.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate 4½%. Next London Stock Exchange Settlement Thursday, 10th January, 1929.

	Middle Price 2nd Jan.	Interest Yield. £ s. d.	Yield with Redemption. £ s. d.
English Government Securities.			
Consols 4% 1957 or after	88⅛	4 11 0	—
Consols 2½%	56¼	4 9 0	—
War Loan 5% 1929-47	103	4 17 0	4 17 6
War Loan 4½% 1925-45	98½	4 12 0	4 14 0
War Loan 4% (Tax free) 1929-42	100⅞	4 0 0	3 19 6
Funding 4% Loan 1960-1990	90	4 9 0	4 11 0
Victory 4% Bonds (available for Estate Duty at par) Average life 35 years	95	4 4 6	4 7 6
Conversion 4½% Loan 1940-44	99	4 11 0	4 13 0
Conversion 3½% Loan 1961	79¾	4 8 0	—
Local Loans 3% Stock 1921 or after	65¼	4 12 0	—
Bank Stock	260	4 11 6	—
India 4½% 1950-55	92	4 17 6	4 19 6
India 3½%	70½	4 19 0	—
India 3%	60½	4 19 0	—
Sudan 4½% 1939-73	95xd	4 15 0	4 15 0
Sudan 4% 1974	87	4 12 0	4 17 0
Transvaal Government 3% 1923-53 (Guaranteed by British Government, Estimated life 19 years)	83	3 13 0	4 8 0
Colonial Securities.			
Canada 3% 1938	86	3 10 0	4 16 0
Cape of Good Hope 4% 1916-36	94	4 5 0	4 19 6
Cape of Good Hope 3½% 1929-49	82	4 5 6	4 18 6
Commonwealth of Australia 5% 1945-75	98	4 18 0	5 2 0
Gold Coast 4½% 1956	96xd	4 13 6	4 17 6
Jamaica 4½% 1941-71	96	4 14 0	4 17 6
Natal 4% 1937	94	4 5 6	5 0 0
New South Wales 4½% 1935-45	90	5 0 0	5 7 0
New South Wales 5% 1945-65	98	5 2 0	5 3 0
New Zealand 4½% 1945	98	4 12 0	4 17 6
New Zealand 5% 1945	103	4 17 0	4 16 0
Queensland 5% 1940-60	98	5 2 0	5 0 6
South Africa 5% 1945-75	103	4 17 0	4 16 0
South Australia 5% 1945-75	98xd	5 2 0	5 2 0
Tasmania 5% 1945-75	100xd	5 0 0	5 0 0
Victoria 5% 1945-75	98	5 2 0	5 0 0
West Australia 5% 1945-75	98xd	5 2 0	5 2 6
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corporation	64	4 13 6	—
Birmingham 5% 1946-56	104	4 16 0	4 15 0
Cardiff 5% 1945-65	103	4 18 0	4 16 6
Croydon 3% 1940-60	71	4 5 0	4 16 0
Hull 3½% 1925-55	79xd	4 9 0	5 0 0
Liverpool 3½% Redeemable at option of Corporation	75	4 13 0	—
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn.	54	4 12 0	—
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn.	65	4 13 0	—
Manchester 3% on or after 1941	65	4 13 0	—
Metropolitan Water Board 3% 'A' 1963-2003	66	4 11 0	4 12 6
Metropolitan Water Board 3% 'B' 1934-2003	66½	4 11 0	4 12 6
Middlesex C. C. 3½% 1927-47	82½xd	4 5 0	4 17 0
Newcastle 3½% Irredeemable	73xd	4 16 0	—
Nottingham 3% Irredeemable	64	4 12 6	—
Stockton 5% 1946-66	104	4 16 0	4 19 0
Wolverhampton 5% 1946-56	102xd	4 18 0	4 19 9
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	84	4 15 6	—
Gt. Western Rly. 5% Rent Charge	102	4 18 0	—
Gt. Western Rly. 5% Preference	98	5 2 0	—
L. & N. E. Rly. 4% Debenture	79xd	5 1 0	—
L. & N. E. Rly. 4% Guaranteed	75	5 7 0	—
L. & N. E. Rly 4% 1st Preference	62	6 8 6	—
L. Mid. & Scot. Rly. 4% Debenture	82½xd	4 17 0	—
L. Mid. & Scot. Rly. 4% Guaranteed	81½	4 18 0	—
L. Mid. & Scot. Rly. 4% Preference	74	5 8 0	—
Southern Railway 4% Debenture	82½xd	4 17 0	—
Southern Railway 5% Guaranteed	100½	5 1 0	—
Southern Railway 5% Preference	94	5 6 0	—

SOLICITOR (32), admitted in 1920 and now practising on own account, desires post as managing clerk or assistant solicitor in an extensive and well-established conveyancing practice, preferably, but not essentially, in South Wales or Monmouthshire. Accustomed to act without supervision in conveyancing and probate matters, and also willing to assist generally. Advocacy not objected to, if required. Can arrange to be available at short notice. Able to converse in Welsh.—Write "A.B." Box 343, Solicitors' Journal, 29, Breams-buildings, E.C.4.

SOLICITOR (Irish), aged 36, 14 years' experience, good worker, reliable, desires employment in or near London as Managing Clerk or otherwise. Excellent references. Salary by arrangement. Apply "T." Box 549, Solicitors' Journal, 29, Breams-buildings, E.C.4.

SOLICITOR, over 20 years' practical experience conveyancing, probate, trust, etc., desires Managing Clerkship, or would manage branch office.—"A.W.," Box 523, Solicitors' Journal, 29, Breams-buildings, E.C.4.

GENTLEMAN, accustomed to committee work and shorthand, with experience in reference work under the Rating and Valuation Act, will be free shortly; good worker; reasonable salary if some prospects.—Apply, in first instance, "R.," Box 55, c/o Solicitors' Journal, 29, Breams-buildings, E.C.4.

CASHIER-BOOK-KEEPER (25) desires position with solicitors as cashier or assistant cashier. At present keeping books of London solicitors with large practice. Thorough practical knowledge of Kain's System, trust accounts and general work of cashier's office. Nine years' experience with solicitors. Salary £4 per week or by arrangement.—Write "S.," Box 516, Solicitors' Journal, 29, Breams-buildings, E.C.4.

SOLICITOR (35), Cambridge graduate, desires Managing Clerkship. Good general experience.—Apply "Alpha," Box 320, Solicitors' Journal, 29, Breams-buildings, E.C.4.

ADMITTED Managing Clerk, general practice large city seven years, two years sole charge, desires engagement owing to amalgamation. Specialities: litigation, advocacy. Athletic, bachelor, and insatiable worker.—"M.P.," Box 459, c/o Solicitors' Journal, 29, Breams-buildings, E.C.4.

SOLICITOR (37), now in practice on own account, small connection, desires managing clerkship in London, with liberty to practise. Salary by arrangement.—"J.," Box 448, Solicitors' Journal, 29 Breams-buildings, E.C.4.

PRACTISING Solicitor would consider appointment as assistant where proper facilities would be given for the conduct of his own practice on terms. Experience mostly conveyancing and High Court litigation, some advocacy. London only.—Write "M.," Box 353, Solicitors' Journal, 29, Breams-buildings, E.C.4.

YOUNG Solicitor undertakes drafting accounts, looking up points, etc., for busy solicitors in return for small charge.—"E.," Box 275, Solicitors' Journal, 29 Breams-buildings, E.C.4.

SOLICITOR (2nd Class Honours), with over 30 years' continuous experience in conveyancing, trust and probate work, willing to assist Solicitors by post.—"S," Box 312, Solicitors' Journal, 29, Breams-buildings, E.C.4.

MANAGING Clerkship wanted by experienced Solicitor. Without supervision if required. £200 to £300.—"X.Y.Z.," Box 597, Solicitors' Journal, 29, Breams-buildings, E.C.4.

EX-OFFICERS AND OTHER RANKS.

THE Proprietors of The Solicitors' Journal have placed this space at the disposal of THE BRITISH LEGION OFFICERS' ASSOCIATION, EMPLOYMENT BUREAU, 3-4, Clement's Inn, Strand, London, W.C.2 (Telephone: Holborn 5769), to whom all replies should be addressed, quoting number of advertisement, date of insertion, and the name of this paper.

ENGLISHMAN, 36, bachelor, requires commercial employment. Six years engineering (automobile and aeronautical); 10 years Government service (Army, R.A.F., civil, field officer, decoration); 4 years petroleum and shipping business. Travelled abroad extensively. 9439.

EXPERIENCED Mechanical and Civil Engineer, business and financial experience; 8 years Malay States as chief engineer and director of business firm, energetic worker, excellent testimonials, ex-service, desires post, home or abroad. 10155.

EX-OFFICER, age 33, Public School, capable, highest integrity, travelled, knowledge of book-keeping, accounts, desires secretarial, managerial or administrative post. Urgent. 467.

OLD CHELTONIAN, commanded units in the War, knowledge of cars, horses, forestry and organisation—destitute—urgently requires outdoor employment. 10166.

EX-REGULAR Captain, age 33, seeks post as estate manager, private secretary, travelling companion, or any administrative position. Drives car; speaks French and Italian. Dis.240.

EX-MAJOR, 38, unmarried, seeks appointment secretary, paymaster, or other position of trust; 7 years insurance; 7 years hotel proprietor; experienced all kinds of sport; widely travelled. Highest credentials. 8823.

PRACTICES AND PARTNERSHIPS.

MR. NOAH A. RIGBY, Solicitor, St. Helens, Lancashire, is desirous of purchasing the succession to or a partnership in a substantial country practice, and will be pleased to hear from any solicitor or firms of solicitors of good standing who are open to negotiation; capital available; excellent credentials; highest references given and required.

SOLICITOR desires to purchase established practice in London, showing good profits, preferably City or West Central District, of deceased or shortly retiring solicitor.—Write Box 10, Solicitors' Journal, 29, Breams-buildings, E.C.4.

SOLICITOR desires to purchase old-established practice in progressive London suburb or substantial share with possible early succession.—Write Box 11, Solicitors' Journal, 29, Breams-buildings, E.C.4.

SOLICITOR desires to purchase share in old-established London practice; Conveyancing, Company and General. City or Law Courts district preferred.—Write Box 12, Solicitors' Journal, 29, Breams-buildings, E.C.4.

SOLICITORS (two partners) wish to discuss working arrangement or amalgamation with a London firm either requiring assistance or having office accommodation to spare.—Box 14, Solicitors' Journal, 29, Breams-buildings, E.C.4.

ABLE, young Solicitor, 24 (June Final).—Second Class Honours, desires junior partnership (with or without preliminary clerkship), with firm having high-class conveyancing and commercial business, willing to invest capital.—Apply "D.," Box 591, Solicitors' Journal, 29 Breams-buildings, E.C.4.

SOLICITOR wishes to dispose of general practice (mainly conveyancing) in large seaside town, within one hour's rail of London; rapidly growing district; would suit young energetic solicitor with capital; price £700.—"B," Box 589, Solicitors' Journal, 29, Breams-buildings, E.C.4.

SOLICITOR, experienced, young and energetic, desires partnership in conveyancing practice in Leeds or West Riding. Capital available.—"K," Box 568, Solicitors' Journal, 29 Breams-buildings, E.C.4.

ENERGETIC solicitor, good advocate, requires sound litigious, conveyancing and general practice, in Kent.—Reply "B.," Box 525, Solicitors' Journal, 29, Breams-buildings, E.C.4.

SOLICITOR wishes to purchase small practice in City for cash.—"B," Box 414, Solicitors' Journal, 29, Breams-buildings, E.C.4.

SOLICITOR, practising own account, having well-situated offices London and good class business, wishes to meet another similarly situated with a view to amalgamation.—Reply "Z.," Box 424, Solicitors' Journal, 29, Breams-buildings, E.C.4.

ARTICLED CLERKS &c.

TOWN CLERK of progressive watering-place will take refined youth as pupil (not articled). Thorough training in all branches of local government administration and municipal law and practice. Small annual premium required. No salary. Youth who intends serving articles later preferred.—"F," Box 593, Solicitors' Journal, 29, Breams-buildings, E.C.4.

SOLICITOR, practising in London, desires to enter into an arrangement with another under which each would take the other's son under articles for 5 years.—"H.G.M.," Box 470, Solicitors' Journal, 29, Breams-buildings, E.C.4.

LAW BOOKS.

WANTED.—Chitty's King's Bench Forms. 1923, last edition.—H, Box 17, Solicitors' Journal, 29, Breams-buildings, E.C.4.

WANTED.—Law Reports, Statutes and Digests for past 15 years.—Particulars and prices to "G," Box 594, Solicitors' Journal, 29, Breams-buildings, E.C.4.

ENGLISH and Empire Digest for sale on easy terms; books unused; approval with pleasure.—BM/WHKN.

FOR SALE.—Law Reports 1891 to 1913, with Statutes in good condition. Any reasonable offer accepted.—"R.," Box 546, Solicitors' Journal, 29, Breams-buildings, E.C.4.

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